



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case reference : **LON/00BG/HMF/2023/0077**

Property : **57 Globe Road, London E1 4DY**

Applicants : **(1) Mr Simon Felix
(2) Ms Samantha Vines
(3) Mr Samuel Coyle & Ms
Emmylou Pendigrast
Mr Muhammed Williams**

Representative : **London Borough of Tower Hamlets
Ref: 342499**

Respondents : **(i)Mr Syed Abedin & (ii) Mr Sayed
Mohammed Islam Habib**

Representative : **Mr Sayed Habib**

Type of application : **Application for a rent repayment order -**

Tribunal members : **Judge Tagliavini
Ms R Kershaw**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **29 November 2023**

DECISION

Decisions of the Tribunal

1. The tribunal finds the alleged offence pursuant to section 72(1) of the Housing Act 2004 (control or management of unlicensed house) is proved by the applicants beyond reasonable doubt.
 2. The tribunal makes the following rent repayment orders:
 - (i) To Mr Simon Felix the sum of **£4,500**
 - (ii) To Ms Samantha Vines the sum of **£2,100**
 - (iii) To Mr Sammuel Coyle and Ms Emmylou Pendigrast the sum of **£5,520**
 3. The tribunal makes an order requiring the respondent to reimburse the applicants' application and hearing fees totalling **£500**.
 4. The tribunal directs the sums specified at paras. 2 and 3 above are to be paid by the respondents to the applicants within 14 days of this decision being sent to the parties.
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The application

5. The Tribunal has received an application under section 41 of the Housing and Planning Act 2016 (the Act) from the applicant tenant for a rent repayment order (RRO). It is asserted that the landlord committed an offence of having control of or managing a house in multiple occupation that was not licenced. In particular, the applicants allege the respondents failed to obtain an Additional Licence under the London Borough of Tower Hamlets Additional Licensing Scheme, which came into effect on 01/04/2019 and applies to all properties where there are:
 - (i) 3 or more people living as 2 or more households; and
 - (ii) They share facilities such as a bathroom or kitchen and
 - (iii) At least one of the tenants pays rent; and
 - (v) The property is not in the Selective Licensing areas of Spitalfields and Banglatown, Weavers and Whitechapel.
6. The applicants allege the subject property being a three bedroom flat in a purpose built flat and let to four person living in three households, satisfied the Additional Licensing requirements and therefore an offence was committed by the respondents pursuant to section 72(1) of the Housing Act 2004.
7. The Applicants seek a RRO for the following periods and amounts:

- (i) Mr Simon Felix from 1/11/2021 to 03/10/2022 in the sum of £8,750;
- (ii) Ms Rebecca Vines from 7/2/2022 to 21/11/22 in the sum of £5,670;
- (iii) Mr Samuel Coyle and Ms Emmylou Pendigrast from 11/11/2021 to 11/10/22 in the sum of £9,950.

The Background

- 8. The first respondent is the person named as the landlord on the letting agreements and the second respondent is his brother and the registered owner of the Flat. It was accepted by the second respondent that he had given permission to the first respondent to rent out the Flat in his own name while the second respondent lived abroad to look after his elderly mother.
- 9. The applicants occupied the subject premises at 57 Globe Road, London E1 4DY ('the Flat') under the following agreements:
 - (i) Mr Simon Felix signed a Lodger Agreement with Mr Abedin starting from 01/10/2021 to 31/03/2022 at an initial monthly rent of £700. This increased to £750 from 01/04/2022.
 - (ii) Ms Rebecca Vines signed a Lodger Agreement with Mr Abedin from 27/01/2022 until 05/08/2022 and paid a monthly rent of £600. Ms Vines left the property in December 2022.
 - (iv) Ms Emmylou Pendigrast and Mr Samuel Coyle signed a joint Assured Shorthold Tenancy (AST) agreement with Mr Abedin starting from 10/11/2018 to 10/07/2022 at a monthly rent of £800 from 10/11/2018 to 10/03/2022. The rent increased to £850 a month from 10/04/2022.

NB: All rents were inclusive of utilities.

- 10. On 22 November 2022 Mr Syed Abedin applied for a Landlord Licence.

Litigation History

- 11. Directions dated 23 May 2023 were issued by the tribunal and an oral hearing was held on 8 November 2023, at which all of the applicants attended and were represented by Mr M Williams from the London Borough of Tower Hamlet. The applicants gave oral evidence to the tribunal and were cross-examined by the Mr Habib. The respondents were also present and gave oral evidence.

The Law

12. Section 72(1) of the Housing Act 2004 states:

(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

13. Section 44(3) and (4) of the Housing and Planning Act 2016 state when making a rent repayment order the tribunal must take into account,

The amount that the landlord may be required to repay in respect of a period must not exceed—

(a) the rent paid in respect of that period, less

(b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.

(4) In determining the amount the tribunal must, in particular, take into account—

(a) the conduct of the landlord and the tenant,

(b) the financial circumstances of the landlord, and

(c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.

The Hearing & the Parties' Contentions

14. The respondents accepted they had not obtained an Additional Licence for the Flat and asserted they had been unaware of the need for a licence and stated,

'We are not seasoned or experienced landlord with multiple rental property portfolios; nor are we versed in all the current legislation and requirements for rental properties.'

15. During the hearing the respondents alleged and Ms Vines accepted she had sublet her room a 2 month period but otherwise accepted the applicants had been in occupation for the periods for which the rent repayment orders were claimed and that the rent had been paid in full.

16. The second respondent told the tribunal the Flat was mortgage free as he had borrowed a lump sum from his relatives to pay off the remaining mortgage, after he decided to resign from his paid employment in

Southwark to go and look after his mother abroad due to her age and ill-health.

Reasons for the tribunal's decision

17. In reaching its decision the tribunal took into account all of the oral and documentary evidence provided to the tribunal by the applicants in the form of a 150 (electronic) page bundle and by the respondents in a hearing bundle of 140 (electronic) pages.
18. The tribunal finds both respondents had the control and management of the Flat during the applicants' periods of occupancy, Further, the tribunal finds the respondents have not established any defence of 'reasonable excuse' as they put forward no persuasive reason as to why they couldn't or didn't keep themselves informed of the local authority's licensing schemes and in particular the Additional licensing scheme which had come into effect in 2019.
19. Consequently and in view of the respondents' admissions as the occupancy of the applicants and their payment of rent as well as the applicants oral and documentary evidence, the tribunal finds the applicants have proved the respondents have committed the alleged offence pursuant to section 72(1) of the Housing Act 2004.
20. In considering the amount of any RRO the tribunal has regard to the factors it is required to consider and include:
 - (a) The conduct of the landlord
 - (b) The financial circumstances of the landlord?
 - (c) Whether the landlord has at any time been convicted of an offence shown above?
 - (d) The conduct of the tenant?
 - (e) Any other factors?
21. The tribunal finds a deduction of £100 per month per agreement is appropriate to reflect the element included in the rent for utilities. The tribunal finds no applicant was in receipt of Universal Credit or housing costs during the period of their occupancy or the period for which the rent repayment order is claimed.
22. Further, the tribunal reduces the period of the RRO in respect of Ms Vines by a 2 month period for which she sublet her room at the Flat. The tribunal found the evidence of Ms Vines as to the exact dates during which she had sublet her room, to be vague and unconvincing and therefore determines a period of two months is an appropriate reduction.

23. The tribunal finds the respondents did not harass or intimidate the applicants during the periods of their occupation and that they had on the whole, an amicable relationship. The tribunal finds the first respondent particularly, did his best to be responsive to complaints and queries from the applicants as he lived in a nearby flat in the same building. However, the tribunal also finds the respondents had no regard to and did not comply with the fire safety measures required for the letting of a property in multiple occupation e.g. the installation of fire doors.

24. The tribunal accepts the second respondent has no income from paid employment as has given up his job and gone abroad to look after a family member. The tribunal also finds the respondents have no relevant convictions in respect of the Flat and therefore makes a total reduction of 40% to reflect the conduct, financial circumstances and the absence of a relevant criminal conviction.

25. Therefore, the tribunal makes the following rent repayment orders:

(i) Mr Simon Felix from 1/10/21 to 1/11/2021 to 01/10/2022:
(ii) 6 months @ £700 per month less £100 per month for utilities = £3,600
6 months @ £750 per month less £100 per month for utilities = £3,900

£7,500 less £3,000 (40%)**£4,500.00**

(i) Ms Rebecca Vines from 7/2/2022 to 21/11/22:

7 months @ £600 per month less £100 per month utilities = £3,500

£3,500 less £1,400 (40%)**£2,100.00**

(iii) Mr Samuel Coyle and Ms Emmylou Pendigrast from 11/11/2021 to 11/10/22:

4 months @ £800 per month less £100 per month utilities = £3,200
8 months @ £850 per month less £100 per month utilities = £6,000

£9,200 less £3,680 (40%).....**£5,520.00**

26. The tribunal makes an order for the reimbursement of the application fees of £100 per applicant and the hearing fee of £200.
27. The tribunal directs the sums identified at paragraphs 17 and 18 above are to be paid by the respondents to the applicants within 14 days of this decision being sent to the parties by the tribunal.

Name: Judge Tagliavini

Date: 29 November 2023

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).