FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BG/HMF/2023/0016.**
Property	**:**	**124 Gosset Street, London E2 6NT.**
Applicant	**:**	**Samuel Murray** **Levi Hinckley** **Harry Emmanouilidis** **Bill Emmanouilidis**
Representative	**:**	**Andrew Davids Advisory Service** **Ref: Andrew Paul**
Respondent	**:**	**CL Wapping Estate Limited.**
Representative	**:**	**Samir Ahmed (Counsel) instructed by Addison & Khan, Solicitors.**
Type of application	**:**	**Application for a rent repayment order by tenant - Sections 40, 41, 43, & 44 of the Housing and Planning Act 2016**
Tribunal	**:**	**Judge Robert Latham** **Steve Wheeler MCIEH**
Date and Venue of Hearing	**:**	**13 November 2023 at** **10 Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**20 December 2023**

DECISION

Decision of the Tribunal

1. The Tribunal makes Rent Repayment Order against the Respondent in the sum of £21,160 which shall be paid by 19 January 2024.

2. The Tribunal declines to make a penal costs order against either the Applicants or Mr Paul pursuant to rule 13(1)(b) of the Tribunal Rules.

2. The Tribunal determines that the Respondent shall also pay the Applicants £300 by 19 January 2024 in respect of the tribunal fees which they have paid.

The Application

1. On 20 January 2023, the Applicants issued an application under section 41 of the Housing and Planning Act 2016 (the 2016 Act) seeking a rent repayment order (RRO). They appointed Mr Andrew Paul of Andrew Davids Advisory Services to be their representative. The claim relates to a maisonette which they occupied at 124 Gosset Street, London E2 6NT between 1 September 2020 and 27 June 2022, paying a rent of £2,300 per month.

2. The RRO was sought on two grounds:

(i) Control or management of an unlicenced HMO contrary to section 72(1) of the Housing Act 2004 ("the 2004 Act"). A RRO was sought in the sum of £27,600 for the period May 2021 to May 2022.

(ii) Harassment of occupiers contrary to section 1(3) and 1(3A) of the Protection from Eviction Act 1997. Costs and damages were claimed in the sum of £42,000.

3. On 24 March 2003, the Tribunal issued Directions which were amended on 4 May 2023.

(i) By 23 May, the Applicants were directed to file their Bundle of Documents. This was to include full details of the alleged offences with supporting documents from the local housing authority. It was also to include any witness statements and documents upon which the Applicants sought to rely. The Bundle was to be provided in a single document in Adobe PDF format.

(ii) The Applicants rather provided a mass of files, a number of which were zip files. No index was provided. The Applicants filed a Statement of Case seeking a RRO in the sum of £309,060, including damages for personal injury and exemplary damages. Witness statements were provided from the four Applicants.

(iii) By 26 June, the Respondent was directed to file its Bundle of Document in response. The Respondent filed a Bundle which included a witness statement from Mr Syed Miah, a director of the Respondent Company. The Respondent asserted that the application was misconceived as it was acting as agent for the landlord, Mr Mohammed Abdur Rahim. On 9 February 2017, Mr Rahim had obtained a licence under Part 3 of the 2024 Act for the period 9 February 2017 to 8 February 2022. On 14 March 2021, Mr Rahim had died. The Respondent was not aware whether Mr Rahim's Executors had taken any steps to extend the licence beyond 8 February 2022. The Respondent denied the allegations of harassment.

4. On 4 October 2023, the application was listed for a video hearing before this Tribunal. The following attended:

(i) Mr Andrew Paul from Andrew Davids Advisory Service. None of the Applicants attended. Mr Paul had informed Mr Samuel Murray, the Lead Applicant, that there was no need for him to attend. On 3 October, Mr Paul had applied for an adjournment. He stated that he was confined to bed was unable to speak very much, coughing frequently and unable to concentrate due to temperature. Judge Latham had indicated that the parties should attend and that the application would be considered at the hearing. It seems that this was not communicated to the parties.

(ii) Mr Samir Amin (Counsel) appeared for the Respondent. He was accompanied by Mr Moshiur Mian from Addison & Khan Solicitors and by Mr Syed. Mr Amin provided a Skeleton Argument and a Bundle of Authorities.

5. Mr Paul informed the Tribunal that he had been confined to bed since Monday (2 October). He had telephoned his GP and had been advised not to leave the house. It was apparent that he was not in a fit state to represent the Applicants. He stated that he was the sole practitioner of Andrew Davids Advisory Service and he had therefore been unable to arrange alternative representation. He is not a lawyer. The Tribunal was satisfied that, having regard to the overriding objectives in rule 2 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Tribunal Rules"), we had no option but to grant the adjournment. We were surprised that Mr Paul had advised the Applicants not to attend. However, they had a right to be present when their case was determined.

6. The Tribunal took the opportunity to clarify the issues in dispute. It was common ground that the Applicants occupied the maisonette between 1 September 2020 and 27 June 2022, paying a rent of £2,300 per month. The Respondent was named as landlord on the tenancy agreement. However, the Respondent suggested that it was rather an undisclosed agent for the leaseholder, Mr Rahim. On 9 February 2017, the London Borough of Tower Hamlets ("Tower Hamlets") had granted Mr Rahim a licence under their Selective Licencing Scheme for the period 9 February 2017 and 8 February 2022. On 14 March 2021, Mr Rahim had died. No

application was made for a new licence until 11 October 2022. Mr Amin suggested that the Respondent was not a landlord against whom a RRO could be sought as he held no interest in land and was a mere agent for Mr Rahim. The Tribunal referred the Respondent to the decisions of (i) *Bruton v London & Quadrant* [2000] 1 AC 406: the House of Lords held that it is open to a landlord to create an interest in land, albeit that holds no interest in land itself; and (ii) *Cabo v Dezotti* [2022] UKUT 240 (LC): the Upper Tribunal considered the circumstances in which a RRO could be made against such a landlord.

7. The Tribunal noted that the Applicants were applying for a RRO on the ground that the Respondent has committed the following offences:

(i) Control or management of an unlicenced property. It was not clear whether the alleged offence was under section 72(1) (unlicenced HMO) or section 95(1) (unlicenced house). The Applicants had had no regard to the fact that Mr Rahim had been granted a licence. The Respondent had not considered the consequences of Mr Rahim's death. It seemed that there was a period when there was no licence. The issues seemed to be for how long and whether the Respondent was able to establish a defence of reasonable excuse (see *Marigold v We*lls [2023] UKUT 33 (LC)); and

(ii) Harassment of occupiers contrary to section 1(3) or (3A) of the Protection from Eviction Act 1977. The Tribunal noted that disrepair does not, in itself, constitute harassment. It seemed that the Applicants vacated the flat willingly, after the landlord had given them 30 days' notice to vacate.

8. The Tribunal directed the Applicants to file a Bundle of Documents in a single document in Adobe PDF format. This should include full details of the alleged offences with supporting documents from the local housing authority. Full particulars should be provided of all alleged incidents of unlawful eviction or harassment. The Tribunal did not grant permission for the Applicants to serve any additional witness statements.

9. Mr Amin indicated that the Respondent wished to make an application for penal costs order pursuant to Rule 13(1)(b) of the Tribunal Rules. The Directions made provision for this. The Tribunal noted that it was unclear whether the Respondent intended to pursue an application against the Applicants or Mr Paul. The Upper Tribunal had set a high threshold for any such application (see *Willow Court Management v Alexander* [2016] UKUT 290 (LC)). Neither was it apparent as to the alleged misconduct upon which the Respondent would seek to rely. It is to be noted that the Tribunal had made no determination as to the merits of the claim. Further, Mr Amin had accepted that Mr Paul was not in a fit state of health to conduct the proceedings, so an adjournment was inevitable.

10. Pursuant to our Directions, the Applicants have filed a Bundle of Documents and a Statement of Case. The alleged offences are pleaded as follows:

(i) The maisonette was unlicenced for a period of 20 months between 1 September 2020 to 27 June 2022. The offence is control or management of an unlicenced house under section 95(1) of the 2004 Act. The Respondent, as the person with control and management of the maisonette is not entitled to rely on the licence which had been granted to Mr Rahim. A RRO is sought for the period 20 January 2020 to 20 January 2021 in the sum of £27,600.

(ii) The Respondent had embarked upon a campaign of harassment from 11 May 2022 when a Mr K Miah entered the maisonette and took a series of photographs. This harassment also included an email, dated 27 May 2022 requiring the tenants to vacate by 27 June. As assured tenants, they were entitled to a minimum of two months' notice. A RRO is sought for the period 27 January to 27 June 2022 in the sum of £13,800.

11. Both parties have filed their statements of case on the Respondent's application for penal costs under rule 13(1) of the Tribunal Rules.

12. In our decision, we refer to documents in the two bundles produced by the parties. The Applicants' Bundle extends to 72 pages and references are pre-fixed by "A.__"), The Respondent's Bundle extends to 67 pages and references are pre-fixed by "R.__"). Mr Amin produced a bundle of authorities which extends to 137 pages.

The Hearing

13. Mr Andrew Paul appeared for the Applicants. All the Applicants gave evidence.

14. Mr Samir Amin (Counsel) appeared for the Respondent. He adduced evidence from Mr Syed Miah. He was accompanied by Ms Caroline Hales, Mr Mahamhoud (Maha) Hasan and Mr Masum Miah, all of whom work for City Lord. None of these people had made witness statements and they did not give evidence. Mr Amin accepted that in the light of the decision in *Cabo v Dezotti*, it was open to the Tribunal to make a RRO against the Respondent as "landlord". However, he suggested that the Respondent had only "inadvertently" become the relevant landlord.

15. At the commencement of the hearing, Mr Paul confirmed that he was seeking RROs for (i) the period 20 January 2021 and 19 January 2022 on the ground that the maisonette was an unlicenced house; and (ii) the period 27 January to 27 June in respect of the acts of harassment. It was agreed that at all material times, Tower Hamlets had introduced a Selective Licencing Scheme which applied to the district in which the maisonette was situated under Parts 3 of the 2004 Act and that the

relevant offence was therefore one under section 95 (1) of the Act. Understandable confusion has arisen as the licence issued by Tower Hamlets refers to both Part 2 and 3 of the 2004 Act.

16. Both representatives agreed that the Tribunal was entitled to make a RRO for a period in excess of 12 months, if satisfied that both offences had been proved. We indicated to the parties that we were not sure that they were correct on this and that we would address this in our written decision (see [42] below).

17. The four Applicants gave evidence. They are all aged in their mid-twenties. They are from Essex and they found the accommodation together. Mr Murray was the Lead Applicant. He is a freelance photographic assistant. He had trained as a landscape gardener, but his back had not proved sufficiently strong. Mr Hinckley is a landscape gardener. Levi and Harry Emmanouilidis are twins and are both plumbers. We are satisfied that they are all witnesses of truth who did their best to assist the tribunal. However, their evidence was vague and was not entirely consistent. They all complained of disrepair but had different recollections as to when the defects occurred and the length of time that this subsisted. It did not assist that their witness statements were equally vague and lacking in detail.

18. Mr Amin called Mr Syed Miah to give evidence. Although he describes himself as a director of the Respondent Company, he was not appointed until 29 December 2022, some six months after the Applicants had left the maisonette. He stated that he had previously worked part-time for City Lord. However, his main job was delivering parcels for Evri. He did not have any contact with the Applicants. We are satisfied that his witness statement was written for him. It is a legal document, rather a history of his involvement in the case. For example, the Tribunal asked him about the "novation agreement" to which reference was made in [3] of his statement. He had no idea of the document to which we were referring. Neither did he have any knowledge of Tower Hamlets' licencing regime. It was apparent from the reactions of the three other members from City Lord who attended the hearing, that they know substantially more than Mr Miah about the background to the case. However, none of them had made statements and none were called to give evidence.

19. In this decision, we refer to "City Lord" a name which seems to have been used freely by three different legal entities based at 41 Burdett Road, London, E3 4TN who have purported to act as managing agents:

(i) CL Wapping Estate Limited, the Respondent Company. We were told that "CL" refers to City Lord. Indeed, a previous name of the company was Citylord Tower Bridge Ltd. This Company was incorporated on 20 June 2016. Between 20 June 2016 and 31 December 2022, Shahjahan Mohammed Shahid was the sole director. On 29 December 2022, Mr Syed Miah assumed this role.

(ii) City Lord Limited. The directors have been Sidrah Butt (1 August 2014 to 6 June 2019), Kamrul Hassan (6 June 2019 to 20 March 2020) and Mahamhoud Hasan (20 March 2020 to 1 January 2022). On 23 July 2022, this Company went into voluntary liquidation.

(iii) Citi Lord Ltd. This company was incorporated on 26 July 2023. The sole director and company secretary is Shahjahan Mohammed Shahid.

20. The names of a number of these individuals appear in this decision. Although the Respondent was described as "landlord" on the Applicant's two tenancy agreements, the Respondent had sought to argue that it was it was a mere agent for the landlord, Mr Rahim. The Applicants were unaware that Mr Rahim was their landlord and had no contact with him. It is a basic principle of the relationship of landlord and tenant that a tenant should be informed of the name and address of their landlord (section 47 and 48 of the Landlord and Tenant Act 1987). It is also a basic principle that any tenant can only be evicted in accordance with the law and that an assured shorthold tenant is entitled to a minimum of two months' notice to quit (section 21 of the Housing Act 1988). Any managing agent is expected to be aware of and give effect to this.

21. The Tribunal has determined this application being mindful of the Overriding objective in rule 3 of the Tribunal Rules, namely to deal with cases fairly and justly. Where a party is represented by a non-lawyer, we should seek to ensure that they are able to put forward their clients' best case. Equally, we are mindful that we are dealing with a quasi-criminal jurisdiction. Before making any RRO, we must be satisfied beyond reasonable doubt that an offence has been committed. Any respondent is entitled to know the case that they are required to answer. However, once an offence has been proved, we are satisfied that we have a discretion as to the penalty, namely the period of time over which a RRO is made and the size of any award.

22. Both representatives agreed that we should determine the Rule 13 Costs application on the basis of their written representations.

The Housing Act 2004 ("the 2004 Act")

23. The 2004 Act introduced a new system of assessing housing conditions and enforcing housing standards. Part 2 relates to the licencing of Houses in Multiple Occupation ("HMOs") whilst Part 3 relates to the selective licensing of other residential accommodation. The Act creates offences under section 72(1) of having control and management of an unlicenced HMO and under section 95(1) of having control or management of an unlicenced house. On summary conviction, a person who commits an offence is liable to a fine. An additional remedy was that either a local housing authority ("LHA") or an occupier could apply to a FTT for a RRO.

24. By section 80, a local housing authority ("LHA") may designate a selective licencing area. Section 95 specifies a number of offences in relation to the licencing of houses. The material part provides (emphasis added):

> "95 (1) A person commits an offence if he is a person <u>having control of</u> or <u>managing a house</u> which is required to be licensed under this Part (see section 85 (1)) but is not so licensed.

25. Section 95(4) provides that it is a defence if the person had "a reasonable excuse for having control of or managing the house in circumstances mentioned in subsection (1).

26. Section 88 deals with the grant or refusal of a licence:

> "(1) Where an application in respect of a house is made to the local housing authority under section 87, the authority must either–
>
> (a) grant a licence in accordance with subsection (2), or
>
> (b) refuse to grant a licence.
>
> (2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either–
>
> (a) to the applicant, or
>
> (b) to some other person, if both he and the applicant agree.
>
> (3) The matters are–
>
> (a) that the proposed licence holder–
>
> (i) is a fit and proper person to be the licence holder, and
>
> (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, <u>the most appropriate person to be the licence holder</u>;
>
> ....
>
> (b) that the proposed manager of the house is either–
>
> (i) the person having control of the house, or

(ii) a person who is an agent or employee of the person having control of the house;

(c) that the proposed manager of the house is a fit and proper person to be the manager of the house; and

(d) that the proposed management arrangements for the house are otherwise satisfactory."

27. It is to be noted that there may be more than one person who may be the appropriate licence holder. In such circumstances it is for the LHA to determine who is the most appropriate person to hold the licence. Many LHAs will not grant a licence to an applicant whose interest in the property is for less than five years.

28. Section 91 addresses the situation where the licence holder dies:

"(7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.

(8) However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes of this Part as if on that date a temporary exemption notice had been served in respect of the house under section 86."

29. Section 263 provides:

"(1) In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises–

(a) receives (whether directly or through an agent or trustee) rents or other payments from–

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as

tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person."

30. It is to be noted that there may be more than one person who may commit an offence under section 95 as having "control of" or "managing" a house. However, when it comes to the making of a RRO, this can only be made against the "landlord".

The Housing and Planning Act 2016 ("the 2016 Act")

31. Part 2 of the 2016 Act introduced a raft of new measures to deal with "rogue landlords and property agents in England". Chapter 2 allows a banning order to be made against a landlord who has been convicted of a banning order offence and Chapter 3 for a data base of rogue landlords and property agents to be established. Section 126 amended the 2004 Act by adding new provisions permitting LHAs to impose Financial Penalties of up to £30,000 for a number of offences as an alternative to prosecution.

32. Chapter 4 introduces a new set of provisions relating to RROs. An additional five offences have been added in respect of which a RRO may now be sought. In *Kowelek v Hassanein [2022] EWCA Civ 1041; [2022] 1 WLR 4558,* Newey LJ summarised the legislative intent in these terms (at [23]):

> "It appears to me, moreover, that the Deputy President's interpretation of section 44 is in keeping with the policy underlying the legislation. Consistently with the heading to part 2, chapter 4 of part 2 of the 2016 Act, in which section 44 is found, has in mind "rogue landlords" and, as was recognised in *Jepsen v Rakusen* [2021] EWCA Civ 1150, [2022] 1 WLR 324, "is intended to deter landlords from committing the specified offences" and reflects a "policy of requiring landlords to comply with their obligations or leave the sector": see paragraphs 36, 39 and 40. "[T]he main object of the provisions", as the Deputy President had observed in the UT (*Rakusen v Jepsen* [2020] UKUT 298 (LC), [2021] HLR 18, at paragraph 64; reversed on other grounds), "is deterrence rather than compensation". In fact, the offence for which a rent repayment order is made need not have occasioned the tenant any loss or even inconvenience (as the Deputy President said in *Rakusen v Jepsen*, at paragraph 64, "an unlicensed HMO may be a perfectly

satisfactory place to live") and, supposing damage to have been caused in some way (for example, as a result of a failure to repair), the tenant may be able to recover compensation for it in other proceedings. Parliament's principal concern was thus not to ensure that a tenant could recoup any particular amount of rent by way of recompense, but to incentivise landlords. The 2016 Act serves that objective as construed by the Deputy President. It conveys the message, "a landlord who commits one of the offences listed in section 40(3) is liable to forfeit every penny he receives for a 12-month period". Further, a landlord is encouraged to put matters right since he will know that, once he does so, there will be no danger of his being ordered to repay future rental payments."

33. Section 40 provides:

> "(1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.
>
> (2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to—
>
> > (a) repay an amount of rent paid by a tenant, or
> >
> > (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy."

34. Section 40(3) lists seven offences "committed by a landlord in relation to housing in England let by that landlord". The seven offences include the offences of:

(i) Eviction or harassment of occupiers contrary to section 1(2), (3) or (3A) of the Protection from Eviction Act 1977; and

(ii) "control or management of unlicenced house contrary to section 95(1) of the 2004 Act.

35. Section 41 deals with applications for RROs. The material parts provide:

> "(1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.
>
> (2) A tenant may apply for a rent repayment order only if —
>
> > (a) the offence relates to housing that, at the time of the offence, was let to the tenant, and

(b) the offence was committed in the period of 12 months ending with the day on which the application is made.

36. Section 43 provides for the making of RROs:

> "(1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted)."

37. Section 44 is concerned with the amount payable under a RRO made in favour of tenants. By section 44(2) that amount "must relate to rent paid during the period mentioned" in a table which then follows. The table provides for repayment of rent paid by the tenant in respect of a maximum period of 12 months. Section 44(3) provides (emphasis added):

> "(3) 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.

38. Section 44(4) provides:

> "(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."

39. Section 47(1) provides that an amount payable to a tenant under a RRO is recoverable as a debt.

The Offence Harassment of Occupiers

40. The Applicants rely on an offence under Section 1(3) of the Protection from Eviction Act which provides:

> (3) If any person with intent to cause the residential occupier of any premises—

(a) to give up the occupation of the premises or any part thereof; or

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—

(a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or

(b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

41. Mr Amin referred the Tribunal to the decision of Judge Elizabeth Cooke in the Upper Tribunal in *Salva v Singh-Potiwal* [2019] UKUT 307 (LC) in support of his averment that a failure to give notice required under the Housing Act 1988 (section 21) does not amount to an unlawful deprivation for the purposes of section 1(2):

"[6] As to the eviction, the appellant said that the respondent required her to leave on 12 June 2018, by text on 8 May 2018. This was then followed up by an email dated 14 May, which asked her to vacate by 5 June.

....

[16] The appellant's challenge to this decision is set out in Flat Justice's letter of 1 February. Flat Justice argues that the FTT accepted, at para [41] of its decision, that the appellant had an assured shorthold tenancy, and that she was therefore entitled to two months' notice of termination of the tenancy under s 21 of the Housing Act 1988. It says that the notice to quit was not in the prescribed form (being by text), and that in any event the landlord was not entitled to serve notice under s 21 because of the lack of an HMO licence, gas certificate and other failings. The appellant's written submissions to the Upper Tribunal repeat these points.

[18] However, the fact remains that there was no eviction. The respondent did not 'unlawfully deprive the residential occupier of the premises'. The appellant has not challenged the finding that she chose to leave before the expiry of the notice given by text. The FTT's finding about unlawful eviction was therefore correct, and the appeal on this point fails.

[19] I appreciate that the appellant believes she was evicted by virtue of the pressure that the respondent's behaviour inflicted on her; but I have found that there is no appeal in respect of the allegations of harassment. In the absence of a physical eviction, for example by her being locked out, the appeal must fail on this point."

RRO sought on the basis of two offences

42. In *Ficcara v James* [2021] UKUT 38 (LC); [2021] HLR 30, Martin Rodger KC, the Deputy President, consider the situation where the tribunal had found that the landlord had committed three offences in respect of which a RRO could be made. The Judge held that the total amount repayable under a rent repayment order, or a number of rent repayment orders, in respect of a single period of time may not exceed the rent paid during that period, even if more than one offence has been committed during that period. A Tribunal may take into account the fact that more than one offence has been committed when considering the amount to be repaid but that amount must not exceed 12 months' rent. This also applied where the offences extended over a period of more than twelve months (emphasis added):

"39 The penalty which s.44 allows is a draconian one, potentially depriving the landlord of the whole of the rent received for the relevant period. It may be imposed in addition to either criminal penalties, or civil financial penalties which a local housing authority may pursue under s.249A, Housing Act 2004. In an appropriate case the tenant in whose favour an order is made may also pursue a civil claim for damages.

40 Had Parliament intended that more than 12 months' rent could be repayable I believe it would have said so much more clearly in s.44(3). I also think it improbable that Parliament intended that the penalties to which a landlord would be exposed would be capable of varying depending on when offences were committed. My conclusion, therefore is that 12 months' rent is the maximum which a landlord can be ordered to repay on an application under s.41, irrespective of the number, timing or duration of the offences committed."

The Background

43. The maisonette at 124 Gosset Street has four bedrooms and is on the ground and first floors of a four storey block owned by Tower Hamlets.

44. On 20 June 2016, CL Wapping Estates Limited, the Respondent, was incorporated. Mr Miah stated that it trades as an estate agent and as a residential property letting and management company. At this time, the sole director was Shahjahan Mohammed Shahid.

45. In October 2016, Tower Hamlets introduced a Selective Licencing Scheme which applied to all rented properties in the wards of Weavers, Whitechapel, Spitalfields & Banglatown. The original scheme expired on 30 September 2021, but was extended for a further five years. The maisonette falls within this scheme.

46. On 9 February 2017 (at R.11), Tower Hamlets granted a licence to Mr Mohammed Abdur Rahim in respect of the maisonette for a period of five years from 9 February 2017. The licence permitted the house to be occupied by up to 5 people in living in no more than 4 households.

47. In his witness statement, Mr Miah refers to a confidential "novation agreement", dated 18 July 2020 between the Respondent and City Lord Ltd. When questioned about this, Mr Miah had no knowledge or comprehension of this agreement. In these circumstances, we can give no weight to this agreement, albeit to note that this adds to the lack of transparency in this case.

48. On 27 July 2020 (at R.7), Mr Rahim entered into an agreement with City Lord Ltd, It was described as a licence for a term of two years at a payment of £2,100 per month. It purports to be a management agreement though it required the monthly payment to be made even if the property was not occupied. It is silent as to who was responsible for ensuring that the maisonette was licenced. We were told that the maisonette had been refurbished with new carpets and lino in the kitchen.

49. On 21 September 2020, the Applicants signed their first tenancy agreement. The Applicants were all aged in their mid-twenties. They were all from Essex and were looking for accommodation together. The maisonette was advertised online as having five bedrooms, which was ideal for them as there was a fifth member of their group. However, when they came to pay a deposit, they were told that there were only four bedrooms, and one member of the group had to remain in Essex.

50. The tenancy agreement is at R.14. The landlord is named as "CL Wapping Estate Ltd, t/a St Katherine Homes". The tenancy was for a term of 12 months from 1 September 2021, at a rent of £2,300 pm. They paid a deposit of £2,653.84. Clause 9.14 required the tenants to report any

maintenance problems through a website www.stkhomes.co.uk. Clause 16.1 provided that any notice to be served on the landlord could be sent by first class mail to the "Agent's address" or emailed to the agent at "notice@stkhomes.co.uk". The "Repairs Process" exhibited to the agreement rather required repairs to be reported online to https://citylord.fixflo.com. Farhat Ahmed signed the tenancy agreement on behalf of "City Lord Ltd".

51. The tenancy did not start well. Both electricity and gas were on payment meters. There was an outstanding deficit of £50 on the electricity and a further £75 on the gas. The Applicants were unable to contact the Respondent, as the office was closed. Without any gas or electricity, they were compelled on sleep on the floor of a friend's flat.

52. Next day, the Applicants contacted the Respondent. The gas and electricity issues were resolved. However, when the Respondent attended, he removed the door to the small room so that it could not be used as a fifth bedroom. The Applicants resented this and felt that they were not trusted.

53. Throughout the tenancy, the Applicants had problems of disrepair. The electric shower gave them a choice of water which was either scolding hot or ice cold. They also had problems with the boiler. The Applicants reported the disrepair online, but rarely got a prompt response. The Applicants had different recollections as to when the defects occurred and how long they lasted. It is not necessary for this Tribunal to make detailed findings on these points. This is not an action for disrepair.

54. There were also two occasions when the water tank on the roof overfilled and water cascaded down the front of the building. Mr Hinckley was unable to open the window to his room. We are satisfied that this was the responsibility of Tower Hamlets, the freeholder of the block. There were some days before these defects were resolved.

55. A neighbour complained to Tower Hamlet that the Applicants were dropping cigarette buts from their balcony. We are satisfied that the Applicants modified their behaviour when this was raised with them.

56. On 14 March 2021, Mr Rahim died. The licence ceased to be in force on his on his death. However, for a period of three months thereafter, the maisonette was to be treated as if there was a temporary exemption notice is place (see [28] above). Mr Khalid Miah, the son, assumed responsibility for the maisonette.

57. On 1 September 2021 (at R.31), the Applicants signed a second tenancy agreement. The landlord was named as "CL Wapping Estate**s** **(sic)** Ltd, t/a St Katherine Homes". Details of an email address (mileend@citylord.co.uk) and a website (www.citylord.co.uk) were provided. The tenancy was for a further term of 6 months from 1

September 2021 at the same rent of £2,300 pm. Clause 9.14 required the tenants to report any maintenance problems through a website www.stkhomes.co.uk. Clause 16.1 provided that any notice to be served on the landlord could be sent by first class mail to the "Agent's address" or emailed to the agent at "notice@citylord.co.uk". Farhat Ahmed again signed the agreement on behalf of "City Lord".

58. At 15.08 on 10 May 2022 (at A.43), Sidrah Butt from City Lord Members, emailed the Applicants to notify them that the landlord had booked two surveyors to inspect the maisonette at 11.00 and 16.00 on 11 May. The Applicants complain that Clause 13.1 required the landlord to give at least 24 hours notice. In any event, access was afforded. A number of photographs were taken.

59. On 26 May 2022 (at R.64), Mr Khalid Miah emailed Mr Mahamoud Hasan stating that he wanted vacant possession of the maisonette. He had raised this with Mr Hasan on 16 May. He had put the property on the market. He referred to there being a number holes and shelves at the maisonette. He wanted the property to be reinstated to its original condition.

60. On 27 May 2022 (at A.45), "Habib" emailed the Applicants giving them 30 days' notice to vacate on 27 June. The Respondent should have been aware that the Applicants were entitled to at least two months notice in accordance with the provisions of the Housing Act 1988. The letter stated that the landlord had reported that the property was not in a good condition. A general inspection had been arranged for 2 June between 15.00 and 17.00.

61. The inspection did not take place on 2 June as the Applicants did not respond to this email. Mr Murray rather sought advice from Mr Paul who advised them that they were entitled to a minimum of two months' notice and that they could stay. However, when they discussed this with each other, the Applicants did not feel comfortable and did not want to stay. Their next payment of rent was due on 1 June. They withheld this as they had paid a deposit. They would also need to pay a deposit on alternative accommodation.

62. On 8 June 2022 at 16.52 (at A.47), City Lord emailed Mr Murray confirming an inspection next day between 17.00 and 18.00. At 17.15 (at A.50), Mr Murray responded stating that their legal advisor "Andy Davids" would be communicating on their behalf. At 17.41 (A.49), Mr Masum Miah responded that he would be happy to speak to any legal advisor.

63. On 9 June 2022 at 16.52 (A.54), Mr Paul sent a "without prejudice agreement" to Mr Hasan. At 17.05 (at A.52), Mr Masum Miah responded seeking Mr Paul's accreditation and position as legal representative. Mr Paul did not respond.

64. On 16 June 2022 (A.56), Mr Sidrah Butt wrote to the Applicants about the outstanding payment of rent. Mr Murray responded (at A.55) asking him to contact "Andy Davids". On 27 June, the Applicants vacated the maisonette. The Applicants spent the previous two weeks filling holes, touching up the paintwork and deep cleaning the carpets. They were unable to find alternative accommodation. Mr Emmanouidilis moved back to Essex. The three other Applicants stayed with various friends sleeping on sofas or floors for 5 weeks until they could secure alternative accommodation.

65. Tower Hamlets (at A.16) have confirmed that a further application was made for a licence on 11 October 2022. It is not known who made the application. After some delay, on 2 March 2023, the Applicants' deposit was released.

Issue 1: Has an Offence of Control or Management of an Unlicenced House been Proved?

66. The Tribunal is satisfied beyond reasonable doubt that the Respondent committed the offence of control of an unlicenced house contrary to section 95(1) of the 2004 Act during the period 14 June 2021 and 27 June 2022, a period of 12 months and 13 days.

67. It is common ground that Tower Hamlets had introduced a Selective Licencing Scheme under Part 3 of the 2014 Act. At all material times, the maisonette required a licence.

68. The Respondent had initially argued that it was no more than an agent for the landlord, Mr Rahim. However, Mr Amin recognised that the Respondent was named as landlord on the two tenancy agreements and was therefore liable as "landlord" (see *Cabo v Dezotti* discussed at [6] above).

69. We are further satisfied that the Respondent was the "person having control" of the premises as it was in receipt of the rack-rent from the Applicants. We are not satisfied that the Respondent was the "person managing" the premises as we are not satisfied that it had been granted a lease of the premises. The relevant provisions of section 263 of the 2004 Act are set out at [29] above.

70. Mr Paul sought to argue that the Respondent was not entitled to rely on the licence which had been granted to Mr Rahim. We disagree. It is the maisonette that required a licence. There are a number of persons who may be the appropriate person to hold a licence. It is for the local housing authority to determine who is the most appropriate person. Mr Rahim was the long lessee of the maisonette. There is no evidence as to what, if any, legal interest the Respondent had in the property.

71. The Tribunal is satisfied that on 9 February 2017 (at R.11), Tower Hamlets had granted a licence to Mr Rahim. On 14 March 2021, Mr Rahim died. The licence ceased to be in force on his death (section 91(7) of the 2004 Act). However, during the period of 3 months beginning with his death, the maisonette was to be treated as if on that date a temporary exemption notice had been served (section 91(8)). This exemption applied up to 13 June 2021. From 14 June 2021, there was no licence in place and no application had been made for a licence. An offence was committed from that date.

72. The Respondent sought to raise a defence of reasonable excuse under section 95(4) of the Act (see [25] above). Mr Amin put the defence in this way. The Respondent firmly believed that it was a mere agent for the landlord. The Respondent relied upon the fact that Mr Rahim had obtained a licence. The Respondent was then placed in an unusual situation after the death of Mr Rahim. It was unaware that the licence had expired three months after his death. It would otherwise have expired on 8 February 2022.

73. This defence was considered by the Upper Tribunal in In *Marigold & Ors v Wells* [2023] UKUT 33 (LC). Martin Rodger KC, the Deputy Chamber President, stated at [40]:

> "The offence of having control of or managing an unlicensed HMO contrary to section 72(1) of the 2004 Act is a continuing offence which is committed by the person having control or managing on each day the relevant HMO remains unlicensed. To avoid liability for the offence the person concerned must therefore establish the defence of reasonable excuse for the whole of the period during which it is alleged to have been committed."

74. In assessing whether a respondent has established the defence of reasonable excuse for the whole of the period during which the offence is alleged to have been committed, the Upper Tribunal endorsed the approach of the Upper Tribunal, Tax and Chancery Chamber, in *Perrin v HMRC* [2018] UKUT 156 (TCC) at [81]. Applying this to the context of landlord and tenant:

> (i) First, establish what facts the landlord asserts give rise to a reasonable excuse (this may include the belief, acts or omissions of the landlord or any other person, the landlord's own experience or relevant attributes, the situation of the landlord at any relevant time and any other relevant external facts).
>
> (ii) Second, decide which of those facts are proven.
>
> (iii) Third, decide whether, viewed objectively, those proven facts do indeed amount to an objectively reasonable excuse for the default

and the time when that objectively reasonable excuse ceased. In doing so, it should take into account the experience and other relevant attributes of the landlord and the situation in which the landlord found himself at the relevant time or times. It might assist the FTT, in this context, to ask itself the question "was what the landlord did (or omitted to do or believed) objectively reasonable for this landlord in those circumstances?

75. It is for the Respondent to establish a defence of reasonable excuse. It has failed to do so. Mr Syed Miah was the only witness called by the Respondent. Mr Miah only became a director of the Respondent Company on 29 December 2022, some six months after the Applicants had vacated the maisonette. Mr Miah was not a satisfactory witness. He had no knowledge of the licencing regime. He had no contact with the Applicants. There is no evidence that Mr Miah had any idea whether the maisonette required a licence, whether a licence was in place or that Mr Rahim had died. Indeed, the impression that he gave was that he had no involvement in the letting of the maisonette. Mr Miah did not satisfy us that the Respondent had taken any steps to ensure that this maisonette was properly licenced. We do not accept that the Respondent "inadvertently" became landlord. An informed decision had been made not to identify Mr Rahim as landlord. This was rather a smoke screen to conceal the real ownership of the maisonette.

Issue 2: Has an Offence of Harassment of Occupiers been Proved?

76. The Applicants have not satisfied the Tribunal beyond reasonable doubt that the Respondent committed the offence of eviction or harassment of occupiers contrary to section 1(2), 1(3) and 1(3A) of the Protection from Eviction Act 1997.

77. Mr Hinkley, Mr Murray, and Mr Bill Emmanouilidis have provided medical evidence stating that they suffered from stress and anxiety which they attribute to the harassment to which they were subjected. We are not satisfied that any of the Respondent's conduct amounted to harassment. However, we accept that the Applicants found their situation stressful. They found it difficult to relate with the staff at City Lord. The events occurred during the Covid lockdown which was stressful for many. The prospect of being made homeless inevitably caused additional stress. They were all of limited means. There is a chronic shortage of affordable accommodation in London.

78. We accept that the Respondent failed to give the Applicants the Notice Seeking Possession with the requisite notice of a minimum of two months to which they were entitled. However, Judge Elizabeth Cook in *Salva v Singh-Potiwa*l (see [39] above) has found that this amounted to an unlawful deprivation for the purposes of section 1 (2). The Applicants were advised by Mr Paul that they did not have to leave. They rather made an

informed decision that they did not want to stay given the problems that they had faced.

79. Their landlord was entitled to enter the maisonette to inspect it and to take photographs. The fact that short notice was given does not amount to harassment. The Applicants may well have felt that their privacy was being invaded and resented that photographs were taken. This does not constitute harassment.

80. We have considered the emails which passed between the parties. We are surprised that the Respondent declined to engage with Mr Paul. However, none of the emails amount to harassment. The Applicants must satisfy us that the Respondent knew or had reasonable cause to believe, that the conduct was likely to cause the Applicants to give up the occupation of the maisonette.

Issue 3: The Assessment of the RRO

81. The 2016 Act gives the Tribunal a discretion as to whether to make an RRO, and if so, the amount of the order. We are satisfied that this is an appropriate case for a RRO to be made.

82. In *Acheapong v Roman* [2022] UKUT 239 (LC); [2022] HLR 44, Judge Elizabeth Cooke has given guidance on the approach that should be adopted by Tribunals (at [20]):

> "The following approach will ensure consistency with the authorities:
>
> a. Ascertain the whole of the rent for the relevant period;
>
> b. Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal will be able to make an informed estimate.
>
> c. Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence? That figure is then the starting point (in the sense that that term is used in criminal sentencing); it is the default penalty in the absence of any other factors but it may be higher or lower in light of the final step:

d. Consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in section 44(4).

21. I would add that step (c) above is part of what is required under section 44(4)(a). It is an assessment of the conduct of the landlord specifically in the context of the offence itself; how badly has this landlord behaved in committing the offence? I have set it out as a separate step because it is the matter that has most frequently been overlooked."

83. In the recent decisions of *Simpson House 3 Ltd v Osserman* [2022] UKUT 164 (LC) and *Hallett v Parker* [2022] UKUT 165 (LC), the Deputy President distinguished between the professional "rogue" landlord, against whom a RRO should be made at the higher end of the scale (80%) and the landlord whose failure was to take sufficient steps to inform himself of the regulatory requirements (25%).

84. Section 44 provides that the period of the RRO may not exceed the rent paid over a period of 12 months during which the landlord was committing the offence. We have found that the offence of having control of an unlicenced house was committe over the period 14 June 2021 to 27 June 2022. However, the last payment of rent was made on 1 May for the period to 31 May. The maximum RRO which we can therefore make is for the period 14 June 2021 to 31 May 2022, a period of 11.5 months at £2,300 pm, namely: £26,450. None of the Applicants were in receipt of universal credit. There are no other deductions from the rent that need to be made.

85. We consider this offence to be at the top end of the scale. The Respondent can only be characterised as a "rogue letting agent". There has been a complete lack of transparency in this case. The Respondent asserted that it was the landlord. However, it would seem that it had no legal interest in the maisonette. It is a basic principle of the law that a tenant should know the identity of their landlord and his address. The Applicants moved into the maisonette with no gas or electricity because their landlord had not cleared the arrears that had arisen. Throughout the tenancy, there were a number of problems of disrepair. These were not the most serious, but the Applicants faced obstacles in getting these addressed. The Respondent should have known that a Notice Seeking Possession giving a minimum of 2 months notice was required. Whilst we have found that this did not constitute harassment, we are satisfied that this is conduct that we should take into account.

86. We have regard to the following:

(a) the conduct of the landlord. We have considered this in assessing the seriousness of the offence.

(b) The conduct of the tenants: There are no factors which would justify any reduction. We accept that they modified their behaviour when a complaint was made about them throwing cigarette butts over the balcony. They paid their rent on time, until they were told to leave. They knew that they had a deposit which they sought to offset against the rent for the final month.

(c) the financial circumstances of the landlord: No evidence has been adduced on this.

(d) whether the landlord has at any time been convicted of an offence to which this Chapter applies. There is no evidence that the Respondent has been convicted of any offence. However, we give limited weight to this. LHAs are under considerable financial pressures and are only able to take action in limited cases. A conviction would rather have been an aggravating factor.

87. We assess the RRO in this case at 80%, namely £21,160. This must be paid by 19 January 2024.

Issue 4: Rule 13 Costs Application

88. The Respondent has filed two N260 Statements of Costs in the sums of £4,521.60 (13.10.23) and £7,344 (10.11.23). Costs are sought against both Mr Paul and/or the Applicants pursuant to rules 13(1)(a) and (b). The costs of £4,521.60 relate to the costs thrown away by the aborted hearing on 13 November 2023 and the additional costs of £7,344 relate to the cost of preparing the submissions.

89. The Applicant has filed a Response. Mr Paul argues that the hearing on 13 November could not have proceeded because he was unfit to present the Applicant's case.

90. Our starting point is rule 13(1)(b) of the Tribunal Rules. This is normally a no costs jurisdiction. However, this rule permits a Tribunal to make an order for costs "if a person has acted unreasonably in bringing, defending or conducting proceedings" (emphasis added). The exceptional circumstances in which it is appropriate to make a penal costs order was considered by the Upper Tribunal in *Willow Court Management v Alexander*. At [28] – [30], the Upper Tribunal set out the three-stage process that should be adopted:

> "28. At the first stage the question is whether a person has acted unreasonably. A decision that the conduct of a party has been unreasonable does not involve an exercise of discretion but rather the application of an objective standard of conduct to the facts of the case. If there is no reasonable explanation for the conduct complained of, the behaviour will properly be adjudged to be unreasonable, and the threshold for the making of an order will

have been crossed. A discretionary power is then engaged and the decision maker moves to a second stage of the inquiry. At that second stage it is essential for the tribunal to consider whether, in the light of the unreasonable conduct it has found to have been demonstrated, it ought to make an order for costs or not; it is only if it decides that it should make an order that a third stage is reached when the question is what the terms of that order should be.

29. Once the power to make an order for costs is engaged there is no equivalent of CPR r.44.2(2)(a) laying down a general rule that the unsuccessful party will be ordered to pay the costs of the successful party. The only general rules are found in s.29(2)-(3) of the 2007 Act, namely that "the relevant tribunal shall have full power to determine by whom and to what extent the costs are to be paid", subject to the tribunal's procedural rules. Pre-eminent amongst those rules, of course, is the overriding objective in r.3, which is to enable the tribunal to deal with cases fairly and justly. This includes dealing with the case "in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal." It therefore does not follow that an order for the payment of the whole of the other party's costs assessed on the standard basis will be appropriate in every case of unreasonable conduct.

30. At both the second and the third of those stages the tribunal is exercising a judicial discretion in which it is required to have regard to all relevant circumstances. The nature, seriousness and effect of the unreasonable conduct will be an important part of the material to be taken into account, but other circumstances will clearly also be relevant; we will mention below some which are of direct importance in these appeals, without intending to limit the circumstances which may be taken into account in other cases.

91. Mr Amin alleges the following unreasonable conduct by the Applicants and/or their representative, Mr Paul:

(i) The Applicants' failure to file a proper bundle of documents for the hearing on 4 October. This had been rectified by the final hearing on 13 November.

(ii) The Applicants' failure to attend the hearing on 4 October. They had been advised by Mr Paul that they did not need to attend.

(iii) Mr Paul is not a qualified lawyer. He should therefore have actively advised the Applicants to attend on 4 October.

(iv) Mr Paul had advised the Applicants that they did not need to attend on 4 October, even though the Tribunal had not granted an adjournment.

(v) Mr Paul's "entire attitude to his request for an adjournment demonstrated a complete lack of understanding of the overriding objective, the approach of the courts to late requests for adjournments to trial and the effect that his request would have on the case timetable".

92. The Respondent's complaint is that it incurred unnecessary costs because the case was unable to proceed on 4 October. A costs order is sought jointly and severally against the Applicants and/or Mr Paul.

93. The Tribunal is satisfied that this application is hopeless. The case could not proceed on 4 October because Mr Paul was ill. He was in no fit state to present the case on behalf of the Applicants. It transpired that he is a sole practitioner of Andrew Davids Advisory Service. He could therefore not arrange for alternative representation.

94. The application for an adjournment was made at a late stage, given his state of health, Mr Paul had a reasonable expectation that the case would not proceed and had informed Mr Murray that he did not need to attend. Judge Latham's initial view on 3 October that the parties should attend was not conveyed to the parties. Had the Applicants attended on 4 October, the Tribunal would not have been willing to proceed. The Applicants were entitled to be represented.

95. At the hearing on 4 October, the Tribunal was critical of how Mr Paul had prepared the case. The Tribunal gave further Directions which enabled both sides to put their cases in order. This area of the law is unduly complex. This Tribunal uses its case management powers to ensure that both sides are able to present their best cases.

96. The reason that the case could not proceed on 4 October was that Mr Paul had been taken ill at short notice. His state of health was such that he was in no position to represent the Applicants. The unsatisfactory manner in which he had prepared the Applicant's case was not a factor.

Refund of Tribunal Fees

97. The Applicants have paid tribunal fees of £300. We are satisfied that this sum should be refunded to the Applicants by the Respondents.

Robert Latham
20 December 2023

RIGHTS OF APPEAL

1. 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.

2. 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.

3. 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.

4. 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.