



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

Case Reference : **MAN/00BY/HMF/2023/0030, 0041, 0043
& 0047**

Property : **17 William Henry Street, Liverpool, L3 8BB**

Applicants : **Sophie Hennessy, Matilda Hobson,
Cara Oldfield, Alexandra Caitlin Smith**

Respondent : **Trophy Homes Ltd**

Type of Application : **Housing Act 2004, Section 73(5)**

Tribunal Member : **P. Barber (Tribunal Judge)
I. James (Tribunal Member)**

DECISION AND REASONS

DECISION

- **The Tribunal makes a Rent Repayment Order in the following terms:**

S. Hennessy – 52 weeks @ £118) x 90% = £5522

M. Hobson – 52 weeks @ £118 x 90% = £5522

C. Oldfield– 52 weeks @ £118 x 90% = £5522

A.C. Smith - 52 weeks @ £118 x 90% = £5522

REASONS

1. This Decision and Reasons related to four applications by the former tenants of the Respondent, Trophy Homes Ltd, their former landlord, for a Rent Repayment Order (RRO). The property address is 17 William Henry Street, Liverpool, L3 8BB. (“the property”).
2. Sophie Hennessy’s application was made on the 22 June 2023; Matilda Hobson’s application was made on the 08 August 2023; Cara Oldfield’s application was made on the 02 August 2023 and Alexandra Caitlin Smith’s application was made on the 15 July 2023. A rent repayment order cannot be made for a period which is more than 12 months prior to the date of the application.
3. The Tribunal held an oral video hearing of this application at 2pm on the 15 March 2024. The Respondent did not attend and in fact has taken no part in these proceedings. We heard evidence from the Applicants, and we also had the benefit of a signed Statement from Ms Renu Sellars, and Enforcement Officer at Liverpool City Council who has been involved in enforcement action in relation to the premises. After the conclusion of the hearing, we made the following findings of fact.

Facts

4. The Applicants occupied the property as tenants, pursuant to a tenancy agreement commencing in September 2021 until they vacated the property at the end of August 2023.
5. At the commencement of the tenancy, the property was occupied by the following tenants, who all shared kitchen and bathroom facilities: Cara Oldfield, Kacey Jackson, Sophie Hennessy, Alexandra Smith, Ricca Jilliane Jazul and Matilda Hobson. Kacey Jackson and Ricca Jazul are not parties to this application. It follows that as the property was occupied by 6 persons who do not form a single household, as their only or main residence and sharing basic amenities, paying a rent that the property met the definition of a HMO in section 254 of the Housing Act 2004.

6. Throughout the Applicants' occupation, the property was not licenced under Part 2 of the Housing Act 2004. We were told in the witness statement of Ms Sellars, and we accept this as true and accurate that no application was ever made in relation to the property. We were informed that Ms Sellars visited the property on 02 June 2023 and confirmed that at least 5 tenants occupied the property and that the landlord was Trophy Homes Ltd. Ms Sellars confirms that as at the date of her witness statement (08 March 2024), no application had been received.
7. At the hearing we were told that the rental payments included an amount for utilities which we take to be gas, electricity, and water rates; together with an amount for wifi and internet. The Applicants were not entirely clear whether the property had a gas supply as it appears that the heating system is communal and shared.

The Applicable Law

8. Section 41 of the Housing and Planning Act 2016 provides that a tenant may apply to the First-tier Tribunal (FtT) for a RRO against a landlord who has committed an offence to which the 2016 applies. The 2016 Act applies to an offence committed under section 72(1) of the Housing Act 2004 (section 40(3) of the 2016 Act).
9. Section 43 provides that the FtT may make a RRO if satisfied, beyond reasonable doubt, that the landlord has committed an offence to which the 2016 Act applies.
10. Section 44 of the 2016 Act provides for how the RRO is to be calculated. In relation to an offence under section 72(1) the period to which a RRO relates is a period, not exceeding 12 months, during which the landlord was committing the offence.
11. By section 44(4) in determining the amount, we had to take account of the following factors: (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.

Application of facts to the law and our Reasons

12. On the basis of the evidence, we were satisfied beyond reasonable doubt that Trophy Homes Ltd has committed an offence to which the 2016 Act applies. Throughout the relevant period, the property came within the definition of a HMO as it was occupied by at least 5 persons in circumstances where they shared facilities and were separate households. Throughout this period the property was required to be licenced under Part 2 of the Housing Act 2004 and it was not. No application has ever been made. In those circumstances, an offence had been committed under section 72 of the Housing Act 2004.

13. We were also satisfied that it was appropriate to make a RRO against Trophy Homes and in favour of each of the Applicants.
14. On the basis of the above facts and law we decided that there was no poor conduct on the part of the tenants such that that might have an impact on the amount of the RRO. Trophy Homes Ltd took no part in the proceedings and accordingly we were unable to take any account of the conduct of the landlord or any financial circumstances of the landlord. We are unaware of any conviction for any offence occasioned by Trophy Homes Ltd.
15. Based on all of the evidence and the factors identified above, we decided that an appropriate level for the RRO would be set at 90% of the monthly rent to take account of the monthly utility charges per occupant which were included in the rent. This produced the following calculations in relation to each applicant:
 - a. S. Hennessy – 52 weeks @ £118) x 90% = £5522
 - b. M. Hobson – 52 weeks @ £118 x 90% = £5522
 - c. C. Oldfield – 52 weeks @ £118 x 90% = £5522
 - d. A.C. Smith - 52 weeks @ £118 x 90% = £5522
16. It follows that we make a Rent Repayment Order in the above amounts.
17. By section 47 of the 2016 Act, a Rent Repayment Order is recoverable as a debt. If Trophy Homes Ltd does not make a payment to each of the Applicants in the above amounts, which it now owes them, or fails to come to an arrangement for payment of the above amounts which is reasonable and agreeable to each of the Applicants, then the Applicants can recover such amounts in the county court.
18. Any party can appeal this decision to the Upper Tribunal. Guidance notes are attached on the process for doing so.

Signed 

Dated 20 March 2024

Phillip Barber, Judge of the First-tier Tribunal