



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

Case Reference(s) : **BIR/00CN/HMK/2024/0007**

Property : **Unit 1118 The Mercian 218 Broad Street
Birmingham B15 1FF**

Applicant : **Mohamed Benrabah**

Respondent : **Broad Street Opco Ltd**

**Respondent's
Representative** : **Hatchers Solicitors LLP**

Type of Application : **An application for a Rent Repayment Order by
a Tenant.**

**Sections 40, 41, 43, & 44 of the Housing and
Planning Act 2016**

Tribunal Members : **V Ward BSc Hons FRICS - Regional Surveyor
Judge M K Gandham**

Date of Decision : **8 May 2024**

DECISION

BACKGROUND

1. The Applicant applied to the Tribunal for a Rent Repayment Order under section 41 of Chapter 4 of Part 2 of the Housing and Planning Act 2016.
2. A Procedural Judge noted there was an issue with the application.
3. The Tribunal can only make a rent repayment order where a landlord has committed an offence falling within section 40 (3) of the Housing and Planning Act 2016 set out below:

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house
7	Housing and Planning Act 2016	section 21	breach of banning order

4. From the information provided, the Respondent did not appear to have committed an offence falling within section 40 (3).
5. Accordingly, the Tribunal considered that it might not have jurisdiction and proposed to strike the application out for a lack of jurisdiction under rule 9 (2) (a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. However, before striking out the application, by way of Directions dated 4 March 2024, both parties were invited to make written submissions to the Tribunal within 14 days.

The Submissions of the Parties

6. The Tribunal did not receive any submissions from the Applicant but received a letter from Hatchers Solicitors LLP, on 14 March 2024, confirming that they were acting on behalf of the Respondent and providing a copy of the Respondent's submissions.
7. The Respondent, in those submissions, agreed with the Tribunal's observation – that the Respondent had not been accused of any offence falling within section 40 (3) of the Housing and Planning Act 2016 – and supported the Tribunal's proposal for the application to be struck out.

Decision

8. The Applicant has not provided any evidence of any grounds by which the Tribunal could make a Rent Repayment Order. Accordingly, the application is struck out for a lack of jurisdiction under rule 9 (2) (a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Appeal

9. A party seeking permission to appeal this decision must make a written application to the Tribunal for permission to appeal. This application must be received by the Tribunal no later than 28 days after this decision is sent to the parties. Further information is contained within Part 6 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013 No. 1169).