



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

**Case Reference** : **CHI/43UD/HMK/2023/0001**

**Property** : **11 Romans Close, Guildford, GU1 2ST**

**Applicants** : **Ben Lyon and Rhiannon Hughes (1)  
(First Applicants)  
Beatriz Aguilar Soto (2)  
(Second Applicant)**

**Representative** : **Mr Cameron Neilson, Justice for  
Tenants**

**Respondent** : **Megharaj Prabhuraj Ginimav**

**Type of  
Application** : **Application for Rent Repayment Order  
under the Housing and Planning Act  
2016**

**Tribunal Members** : **Tribunal Judge H Lumby  
Mr B Bourne MRICS  
Ms T Wong**

**Venue** : **Havant Justice Centre**

**Date of Hearing** : **2nd April 2024**

**Date of Decision** : **3rd April 2024**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The tribunal orders the Respondent to repay to the First Applicants the sum of £5,327.66 by way of rent repayment.
- (2) The tribunal orders the Respondent to repay to the Second Applicant the sum of £3,450 by way of rent repayment.
- (3) The tribunal also orders the Respondent to reimburse to the Applicants both the application fee of £100 and the hearing fee of £200 (amounting to £300 to be reimbursed in total).

## **Introduction**

1. The Applicants have applied for a rent repayment order against the Respondent under sections 40-44 of the Housing and Planning Act 2016 (“**the 2016 Act**”). The application has been made within the time limits required for the periods claimed.
2. The basis for the application is that the Respondent was controlling and/or managing an HMO which was required to be licenced under Part 2 of the Housing Act 2004 (“**the 2004 Act**”) at a time when it was let to the Applicants and others but was not so licensed and that he was therefore committing an offence under section 72(1) of the 2004 Act.
3. The Property is a five bedroom semi-detached property, comprised of three storeys with a shared kitchen and communal bathroom. The living room is used as the fifth bedroom and is occupied by the Respondent. Two bedrooms have ensuite bathrooms.
4. The First Applicants rented the top floor bedroom with ensuite bathroom in the Property pursuant to a lodgers’ agreement. Their claim is for the repayment of rent for the period 7 July 2022 to 19 February 2023, amounting to £8,097.81.
5. The Second Applicant rented a bedroom on the first floor of the Property pursuant to a tenancy agreement. Her claim is for the repayment of rent paid during the period from 22 January 2022 to 21 January 2023, amounting to £5,400.
6. The Respondent is the registered proprietor of the Property which he also manages. He was the landlord of the Applicants throughout the times to which the application relates.

7. The tribunal was provided with a bundle running to 396 pages. The contents of all these documents were noted by the tribunal.
8. The hearing was conducted in person. The Applicants were in attendance, represented by Mr Neilson. The Second Applicant gave evidence in response to questions from the Respondent. Mr Peter Elliot of Justice for Tenants accompanied Mr Neilson as an observer. The Respondent attended in person and was accompanied by his son, Mr Shreyas Shreeprabhu.

### **Relevant statutory provisions**

9. The relevant statutory provisions are set out in the Schedule to this decision.

### **Alleged Offence**

#### **House in Multiple Occupation**

10. The First Applicants rented a room and lived at the Property from 7 July 2022 until 24 March 2023. The Second Applicant rented a room and lived at the Property from 26 December 2018 until 22 March 2023.
11. The amounts the Applicants say that they paid during the respective periods of their claims are not disputed by the Respondent.
12. The Applicants argue that throughout the periods of their claims the Property was an unlicensed HMO on the basis that it was rented to five or more people who form more than one household. It is accepted that tenants shared bathroom and kitchen facilities and that the Applicants paid rent.
13. The Respondent accepts that he did not have an HMO licence at any time from 1 December 2021 until he made an application for a licence on 19 February 2023. He also accepts that throughout this period there were at all times at least five people in occupation of the Property. This admission covers the entire periods of the Applicants' claims.
14. The Respondent therefore accepted that he was controlling and/or managing an HMO which was required to be licensed under Part 2 of the 2004 Act but was not so licensed between 1 December 2021 until 19 February 2023 and that he was therefore committing an offence under section 72(1) of the 2004 Act during that period.

## **Consideration of grounds**

15. The Respondent has accepted that he committed an offence under section 72(1) of the 2004 Act between 1 December 2021 until 19 February 2023. The tribunal is satisfied beyond all reasonable doubt that the offence was committed and that the relevant dates when the offence was committed were between 1 December 2021 and 19 February 2023. It is also satisfied that this covers the entire periods claimed by the Applicants.

## **Reasonable excuse submissions**

16. Accordingly, having established the ground for potentially making a rent repayment order, the tribunal considered whether the Respondent had a reasonable excuse for committing the offence. This would operate as a defence to the claim and mean that a rent repayment order could either not be made or the sums claimed reduced.
17. The Respondent explained that he first learnt that he needed an HMO licence in respect of the Property on 1 December 2021; prior to that he believed that the threshold was over five people. At that time he was experiencing financial difficulties. He had a second rental property, which was located in Eastbourne. His tenants had vandalised that house and stripped it of its contents. As a result, he had to carry out repairs costing about £20,000 to £25,000. He had borrowed the money to do the works from his mother, aunt and son. The property had then been rented out to new tenants, who had used it as a marijuana factory and so he had begun eviction proceedings after two months. This resulted in another £5,000 of repairs.
18. Faced with these financial difficulties, he had enquired about the process to get an HMO licence for the Property. He learned that he would have to pay a fee of £1,250 and carry out various works to the Property, including (he mistakenly believed) installing fire doors. He estimated a total cost of £3,000 to £4,000. He felt the choice was between paying his mortgages and obtaining the licence. He decided that the best option was to wait until his finances were improved before obtaining the licence, relying on the rental income from the two properties to achieve that.
19. He accepts that he made a mistake in reaching that decision. He said that he has been suffering from stress and anxiety for 15 years. Despite having an MBA and having worked for some blue chip companies, he could not continue in part time work for more than six months. Instead, he sought a simple life, looking after his properties. His relationship with his tenants was important, out of 19 in the Property, he was proud that he had got on well with 16. He pointed to a list of his medication in the bundle, including an anti-depressant and an anti-psychotic drug. He told the tribunal that these do a good job in keeping his anxiety under control, although this can flare up in a stressful environment.

20. The Respondent's argument is that the combination of the financial pressures and anxiety had impaired his judgment. He argues that as soon as he had the financial leeway, he applied for an HMO and carried out the required works to the Property. Furthermore, he does not consider that he placed his tenants in danger as he had fire alarms on each floor, a carbon monoxide alarm in the house and the Property was a new build.
21. The Respondent was questioned as to the actual works required in order to get an HMO licence for the Property. He explained that the doors did not in fact need replacing as they were already all fire doors. They did need self-closing mechanisms adding to them. The sliding doors between the kitchen and the living room (which he was using as his bedroom) needed replacing with a wall, the fire alarms needed to be connected to form an interconnected central alarm system and he needed to supply fire extinguishers and a fire blanket.
22. He was also asked about alternatives to an HMO application and carrying out the related works. He had not approached the local authority to discuss what his options were and it is apparent from the bundle that he continued to let space in the house rather than reducing the number of occupants to below five. He accepted that these could have been sensible alternatives and he made a mistake in not pursuing them. Instead, he acknowledged that he had made a conscious decision to operate the Property as an unlicensed HMO from December 2021. His belief then was that the best way to get himself out of his difficulties was to maximise income so he could tackle his debts and afford the HMO application. He did seek to sell the Eastbourne property but said he could not find a buyer after nine months of marketing it. He also acknowledged that he knew that operating an unlicensed HMO was a criminal offence.
23. The Applicants argued that the reasons put forward by the Respondent for his operation of an unlicensed HMO did not amount to a reasonable excuse. They argued that three potential excuses had been put forward, being ignorance of the requirements, the Respondent's financial circumstances and his medical condition. He had clearly demonstrated that he knew of the requirements from December 2021 so ignorance cannot be an excuse. They contended that the financial circumstances also did not provide a sufficient excuse as he had legitimate alternatives such as reducing the number of occupiers or seeking advice from the local authority. Finally, for a reasonable excuse defence based on a medical condition, supporting evidence would be required and the Applicants argued that this has not been supplied.

### **Reasonable excuse decision**

24. The tribunal considered the submissions made by the parties as to whether the Respondent had a reasonable excuse for his management and control of an unlicensed HMO. In doing so, it was aware that it is for the Respondent to make out the defence of reasonable excuse to the civil

standard of proof (as confirmed in *IR Management Services Limited v Salford* [2020] UKUT 81 (LC) and *Thurrock Council v Palm View Estates* [2020] UKUT 355(LC)). It was also cognisant that the offence in this case is not a failure to apply for an HMO licence but instead the management and control of an HMO without a licence. In reaching its decision, the tribunal considered the Upper Tribunal guidance on what amounts to a reasonable excuse defence in the cases of *Marigold & ors v Wells* [2023] UKUT 33 (LC) and *D'Costa v D'Andrea & ors* [2021] UKUT 144 (LC), as well as *Perrin v HMRC* [2018] UKUT 156 (TCC).

25. Ignorance can in exceptional circumstances amount to a reasonable excuse defence. In this case, it is clear however that the Respondent had sufficient understanding of the requirement for an HMO licence from December 2021 onwards. In light of that knowledge, he made a clear decision not to apply for a licence and to manage or control an unlicensed HMO. Ignorance cannot be a reasonable excuse in this case.
26. The Respondent, in making his clear decision to continue to manage or control an unlicensed HMO, says he based that decision on his financial circumstances. He told the tribunal that it was his belief that this provided the best allocation of his resources. In doing so, he made a deliberate choice to commit an offence. The tribunal does not accept that he had a binary choice between paying his mortgage and applying for the licence. He could instead, for example, have reduced the number of occupants of the Property to below five or sought the advice of the council as to its options. The tribunal accepts his financial circumstances may have led him to take the action he did but does not consider that this provides an objectively reasonable excuse for pursuing the course of action he took. He took a risk in order to maximise his revenue, the risk being that his decision was discovered. He deserves credit for the honest and open way that he has disclosed his reasons to the tribunal but that does not change the fact that this is not a reasonable excuse.
27. The Respondent argued that his anxiety, coupled with his financial circumstances, impaired his judgment, leading him to make a mistake. He has provided evidence of his current medication and explained the impact his anxiety has on him. He also explained that the medication had been effective at dealing with his anxiety issues, although it was still an issue in stressful situations. Mr Neilson drew the tribunal's attention to the case of *AA v Rodriguez & Ors* [2021] UKUT 296 (LC), a case which supports the proposition that mental health can constitute a reasonable excuse. As referred to above, it is for the Respondent to make out the defence of reasonable excuse, requiring him to show that his mental health on the balance of probabilities led him to make the choice he made to continuing managing or controlling the Property as an unlicensed HMO. He has not provided evidence to support this. Based on the evidence presented to the tribunal, it is possible that it might have influenced the original decision in December 2021. It was not until February 2023 that he applied for the licence, some fifteen months later. If his medication was as successful as he claimed, he would have realised

sooner than this that he had made a mistake and taken steps to rectify it. The tribunal therefore finds that the Respondent has not made out the defence of reasonable excuse on medical grounds.

28. As a result, the tribunal finds that the Respondent does not have a reasonable excuse to the offence.

### **Rent Repayment Order**

29. Section 43 of the 2016 Act provides that where a tribunal is satisfied beyond reasonable doubt that a landlord has committed a relevant offence, it may make a rent repayment order. The tribunal does therefore have a discretion as to whether to make an order although it has been established that it would be exceptional not to make a rent repayment order (*Wilson v Campbell* [2019] UKUT 363 (LC)).
30. In this case, the tribunal is satisfied beyond reasonable doubt that an offence has been committed and that there is no reasonable excuse for the offence. It does not consider that there are any exceptional circumstances preventing it making an order and therefore determines that a rent repayment order should be made.

### **Submissions on quantum**

31. Having determined that a rent repayment order should be made, the tribunal next considered the quantum of such order.
32. The Applicants argued that there should be no deductions from the rent for the element that represented utilities, contending that the tribunal had a discretion to decide whether or not to order repayment of this and that, given the seriousness of the offence, it should exercise that discretion in favour of repayment. If the tribunal did not accept that argument, the Applicants argued that the utilities bills should be apportioned between the occupiers of the Property on a per capita basis.
33. The Respondent confirmed that he was responsible for all the utilities bills and did not recharge them to the other occupants, including the Applicants. His estimate of the utilities costs was approximately £400 per calendar month. The Applicants did not question this figure.
34. The Applicants contended that much weight should be given to the seriousness of the offence. It was conceded that compared to other offences for which rent repayment orders could be made, it was a less serious offence, although on a par with Financial Penalties and Improvement Notices if assessed by sentence guidelines. They referred to the case of *Daff v Gyalui* [2023] UKUT 134 (LC), where the Upper Tribunal had stressed that the individual circumstances of the case

should also be considered. In this case, the actions and conduct of the Respondent made the case particularly serious.

35. The Applicants outlined the actions and conduct that supported this contention. They argued that the offence itself was carried out with full knowledge and intent from December 2021 over a fifteen month period, with the Respondent doing nothing to mitigate but instead bringing in new tenants. In addition, they pointed to the fire safety works which were necessary to bring the Property into a condition sufficient to obtain an HMO licence, arguing that the failure to do these works aggravated the offence.
36. They also argued that other works were required to the Property which were either not carried out or carried out slowly; the examples given were a shattered pane in the window in the First Applicants' room and the time taken to prevent the cistern constantly trickling water in the toilet in their ensuite. The Respondent's conduct was also cited as an issue, particularly in playing music late at night and disturbing the Second Applicant. Finally, they argued that the failure to provide an EPC, Gas Safety Certificate and How to Rent guides further exacerbated the seriousness of the offence.
37. The Respondent acknowledged that he made a mistake by not applying for an HMO licence earlier or taking others step to avoid the issue. The reasons given as part of his reasonable excuse defence could be applied equally here. He had also accepted as part of that defence that there were fire safety works required but he had considered the Property to be safe for the reasons outlined earlier. He agreed that there was a shattered pane in the First Applicants' room that was not repaired throughout their time in the Property but contended that it was a double glazed window with only one pane shattered and so was a low priority. He explained that the trickling cistern required a part which he ordered and fixed the issue within two weeks of being told about it.
38. The concerns about conduct were also raised by the Respondent. He acknowledged that he could play loud music at times but would wear headphones after 11pm and would always quieten down when requested. He said that the issue was exacerbated by thin walls in the house. He raised concerns about the deterioration in his relationship with the Second Applicant and the attitude towards him of Ms Hughes and emphasised that he had good relations with 16 out of the 19 tenants who had lived in the Property, pointing to references in the bundle. He accepted he may not have provided an EPC or a How to Rent guide to the Second Applicant but argued that these were not needed for the First Applicants as they had signed a lodgers' agreement.
39. The Applicants accepted that, in calculating quantum, the Respondent's conduct should only be taken into account once, as part of the seriousness of the offence. Mr Neilson argued that the Applicants had all



conducted themselves well and complied with the terms of their respective agreements.

40. The Respondent had no prior criminal convictions for the offences covered by sections 40 – 44 of the 2016 Act. The Applicants accepted this but argued that this should not lead a reduction in the quantum, instead the proportion to be repaid should not be further increased as a result.
41. The Applicants submitted that the Respondent was an experienced landlord who had run his two properties for a reasonable time. As a result, limited weight should be given to whether he was a professional landlord or not.
42. The Respondent was asked about his financial circumstances. His current income was from his two properties; he was currently receiving £3,600 per calendar month from the Property and £3,900 per calendar month from the Eastbourne property. He estimated the Property was worth £900,000 and was subject to a mortgage of £520,000, costing him £1,444 a month. The Eastbourne property was estimated by him to be worth £650,000 and subject to a mortgage of £330,000, costing him £1,700 a month. He had no other substantial assets. His current debts (as at 29 February 2024) included £20,948 in arrears and £21,000 owed to his aunt and son for the loans made for the Eastbourne property works. His month end bank balance had not been above zero for the last two years.
43. The Applicants argued that the Respondent had significant equity in the two properties and significant excess of monthly income over costs. They contended that any reduction in the amount to be repaid as a result of the Respondent's financial circumstances would undermine the policy objectives of the relevant legislation.
44. The Applicants submitted that the total repayment order should be set by the tribunal at 90% of the amount claimed, primarily on the basis of the seriousness of the offence and aggravating factors. They argued that the intent of the legislation was to punish offenders and remove the profit received from their actions.
45. The Respondent argued that he was an honest person who had not tried to deceive the tribunal or his tenants. He said he had made a mistake due to his financial circumstances which were still bad. He did not know that he could have approached the local authority for help with the HMO position, he said his objective was to get rent in and have good relationships with his tenants.

## **Method of assessing quantum**

46. Section 46 of the 2016 Act specifies circumstances where a tribunal is obliged to make a rent repayment order in the maximum amount (subject to exception circumstances). These do not apply where the tenant is seeking to rely on offences under section 72(1) of the 2004 Act, as is the case here. The tribunal therefore has discretion as to the percentage of the rent it can order be repaid.
47. Section 44 of the 2016 Act specifies the factors that a tribunal must take into account in making a rent repayment order. This has been qualified by the Upper Tribunal in guidance given in the case of *Acheampong v Roman* [2022] UKUT 239. That guidance is summarised as follows:
- (i) ascertain the whole of the rent for the relevant period;
  - (ii) subtract any element of that sum that represents payment for utilities that only benefited the tenant, e.g. gas, electricity and internet access;
  - (iii) consider how serious the 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?
  - (iv) finally, 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), namely the matters the tribunal must 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 identified in the table at section 45 of the 2016 Act.

## **Tribunal assessment of quantum**

48. The First Applicants claimed that the rent paid by them for the period 7 July 2022 to 19 February 2023 was £8,097.81.

49. The Second Applicant claimed that the rent paid by her for the period from 22 January 2022 to 21 January 2023 was £5,400.
50. Both of these figures were agreed by the Respondent and so accepted by the tribunal as the relevant total amounts paid for the periods claimed.
51. The Respondent met all the utilities bills from the rent received, so the rent was inclusive of utilities. The tribunal considered the Applicants' submission that the utilities should not be deducted from the amount to be repaid but did not accept it. There was clear guidance from the Upper Tribunal in the case of *Acheampong v Roman* that this should be deducted. In addition, the tribunal considered that as the utilities were actual costs incurred by the Respondent, it was unjust to make him pay for these twice by ordering their repayment to the Applicants.
52. The tribunal therefore assessed the amount that should be deducted in respect of utilities. Detailed utilities information has not been provided. The Respondent has estimated that utilities cost him around £400 per calendar month and the tribunal considers that this is a reasonable amount. It is therefore accepted as the relevant figure to be used. The Applicants had submitted that this amount should be divided between the occupiers of the Property on an equal basis; the tribunal accepted that this was a fair basis. Information on occupancy levels has been provided in the bundle; after careful consideration of this, the tribunal determined that the average occupancy throughout the relevant periods was six. As a result, the amount allocated to each occupant was £400 per calendar month divided by six, giving a figure of £66.66 per occupant per month; this equated to a daily rate of £2.19.
53. The tribunal calculated the deductions for each of the Applicants, starting with the First Applicants. Their claim is for 227 days, multiplying that by the daily rate of £2.19 gives a deduction of £497.13 each, so a total deduction of £994.26. Deducting this from their claim of £8,097.81 gives a balance of £7,103.55.
54. The Second Applicant is claiming for a whole year. Her deduction has been calculated by taking the total estimated utility bill for the year (12 times £400, being £4,800) and dividing this by the average occupancy of 6. This gives a figure of £800 to be deducted. Her claim is £5,400, so the amount after the deduction is £4,600.
55. The tribunal considered the seriousness of the offence. Compared to other offences covered by sections 40 to 44 of the 2016 Act, this is a less serious offence. However, compared to other examples of management and control of an unlicensed HMO, it is a much more serious offence. The tribunal particularly noted that the offence was committed with the full knowledge of the Respondent and over a 15 month period; it was not inadvertent or for a short period. No steps were taken to mitigate the offence, for example by reducing the number of occupiers, instead empty

rooms were relet. There were fire safety issues, although the Property did have an element of protection for the occupiers. The tribunal recognises that the Respondent was and still is experiencing financial difficulties and in reaching the proportion to be repaid has taken this into account. Given these factors, the tribunal considers that 75% is a fair reflection of the seriousness of the offence.

56. The tribunal then considered the conduct of the parties. The Respondent's conduct in committing the offence and not carrying out fire safety works to make the Property compliant with the standards expected of an HMO have been taken into account in assessing the appropriate percentage referred to above. It does not consider that any further adjustment is required as a consequence of the conduct of the parties.
57. The tribunal also determined that no further adjustment was needed to reflect the financial circumstances of the Respondent. Whilst cognisant that he may experience hardship in complying with the orders made in this decision, the tribunal has already taken account of his financial situation in reaching the initial 75% assessment. To make a further adjustment would result in double counting.
58. Finally, the tribunal noted that the Respondent had not previously been convicted of an offence identified in the table in section 45 of the 2016 Act (which is set out in the Schedule to this decision). No increase is made to the proportion as a result. However, given the Respondent is an experienced landlord who was acting with clear knowledge of the relevant legislation, the tribunal also determined that no downwards adjustment should be made.
59. As a result, the tribunal determined that the appropriate proportion of the rent paid which the Respondent should be obliged to repay is 75%.
60. Applying this proportion to the rent paid by the Applicants net of the utilities deduction, the tribunal calculated the amount to be repaid to the First Applicants as £5,327.66 and the amount to be repaid to the Second Applicant as £3,450.

### **Tribunal determination**

61. The tribunal determines that it is satisfied beyond all reasonable doubt that the Respondent was controlling and/or managing an HMO which was required to be licenced under Part 2 of the 2004 Act but was not so licensed between 1 December 2021 and 19 February 2023 and that he was therefore committing an offence under section 72(1) of the 2004 Act during that period. It also determines that the Respondent had no reasonable excuse for that offence.

62. The tribunal has determined that it should make rent repayment orders in favour of the Applicants for that offence and has calculated the quantum of those orders as £5,327.66 in respect of the First Applicants and the amount to be repaid to the Second Applicant as £3,450.
63. Accordingly, the tribunal orders the Respondent to repay to the First Applicants the sum of £5,327.66 and the Second Applicant the sum of £3,450, both by way of rent repayment.

### **Cost applications**

64. The Applicants has applied under paragraph 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for an order that the Respondent reimburse the application fee of £100.00 and the hearing fee of £200.00.
65. As the Applicants has been largely successful in this claim, the tribunal is satisfied that some level of reimbursement of these fees should be made. The tribunal considers that the failure to obtain an HMO licence for the relevant periods claimed was entirely a matter of discretion by the Respondent. He knew he needed to obtain a licence or ensure that the number of occupants was below the threshold for an HMO but choose to continue without one. It is therefore just and equitable that he should be responsible for the tribunal fees associated with this case.
66. The tribunal therefore orders the Respondent to reimburse to the Applicants each of the application fee of £100 and the hearing fee of £200 (amounting to £300 to be reimbursed in total).

### **Rights of appeal**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk)
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

## SCHEDULE

### Relevant statutory provisions

#### Housing and Planning Act 2016

#### Section 40

- (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 ...
- (3) A reference to “an offence to which this Chapter applies” is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

	<b>Act</b>	<b>section</b>	<b>general description of offence</b>
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	This Act	section 21	breach of banning order

#### Section 41

- (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.

#### Section 43

- (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).
- (2) A rent repayment order under this section may be made only on an application under 41.
- (3) The amount of a rent repayment order under this section is to be determined in accordance with – (a) section 44 (where the application is made by a tenant) ...

#### Section 44

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.
- (2) The amount must relate to rent paid during the period mentioned in the table.



<b><i>If the order is made on the ground that the landlord has committed</i></b>	<b><i>the amount must relate to rent paid by the tenant in respect of</i></b>
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

- (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.
- (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.

#### Housing Act 2004

##### Section 95

- (1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part ... but is not so licensed.
- (4) In proceedings against a person for an offence under subsection (1) ... it is a defence that he had a reasonable excuse ... for having control of or managing the house in the circumstances mentioned in subsection (1) ... .