



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

**Case Reference** : **LON/00BC/HMB/2024/0001**

**Property** : **66 Capel Gardens, Ilford, IG3 9DG**

**Applicant** : **Oyin Okusanya**

**Representative** : **In person**

**Respondent** : **Raazia Hassan**

**Representative** : **In person**

**Type of Application** : **Application for a Rent Repayment  
Order by Tenant – Sections 40, 41,  
43 & 44 of the Housing and  
Planning Act 2016**

**Tribunal Members** : **Judge Robert Latham  
Stephen Mason FRICS**

**Date and Venue of  
Hearing** : **29 August 2024 at  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **3 September 2024**

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**DECISION**

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## **Decision of the Tribunal**

The Tribunal does not make a rent repayment order.

### **The Application**

1. On 20 December 2023, the Applicant issued an application under section 41 of the Housing and Planning Act 2016 (“the 2016 Act”) for a rent repayment order (“RRO”) in the sum of £6,205, albeit that she had only paid a total of £1,600 during the period of five weeks that she had occupied a room at 66 Capel Gardens, Ilford, IG3 9DG (“the Property”).
2. The Applicant sought a RRO on the following grounds:
  - (i) Violence for securing entry contrary to section 6(1) of the Criminal Law Act 1977;
  - (ii) Unlawful eviction contrary to section 1(2) of the Protection from Eviction Act 1977;
  - (iii) Harassment contrary to sections 1(2) and (1(3) of the Protection from Eviction Act 1977; and
  - (iv) Control or management of an unlicensed HMO contrary to section 72(1) of the Housing Act 2004.
3. Any applicant seeking a RRO must recognise that they must prove that their landlord has committed one of these offences to the criminal standard of proof, namely to satisfy this tribunal “beyond reasonable doubt” of all the relevant ingredients which constitute one of the above offences. Where an allegation of violence for securing entry, unlawful eviction or harassment is alleged, full particulars of the alleged offences must be provided. An applicant must adduce clear and cogent evidence to prove their case.
4. This tribunal is used to dealing with litigants in person. It gives Directions to enable an applicant to formulate their case and provide the necessary evidence. Any litigant in person who ignores those Directions is likely to severely prejudice their case.
5. On 7 February 2024, Judge Cowen gave Directions. He noted that the Applicant had provided very few particulars of the very serious offences which were alleged. He reminded her that in order to succeed, she would need to prove all the elements of the alleged offences beyond reasonable doubt. He urged the Applicant to seek legal advice.

6. By 3 April 2024, the Applicant was directed to file a Bundle of all the material upon which she sought to rely. She was required to provide a statement of case setting out all the facts and details of the alleged offences, and all the documents and witness statements to prove the alleged offences.
7. On 12 April 2024, the Applicant provided a Bundle of 21 pages including a witness statement a number of documents. Her witness statement did not address the issues required by the Directions. Her Bundle did not include the required documents. No particulars were provided of the alleged harassment. No evidence was provided to satisfy the tribunal that the Property required an HMO licence. She failed to include a copy of her application form and the Directions. No particulars were provided of the universal credit that she had received.
8. On 7 June 2024, the Respondent filed her Bundle of 24 pages in response. On 19 June, the Applicant filed a Reply.
9. On 11 July 2024, this application was listed for hearing before Judge Hawkes and Steve Wheeler. The Applicant attended the hearing one hour late. She was unable to provide any satisfactory explanation for this. Two issues concerned the Tribunal:
  - (i) Ms Hassan had referred in her witness statement to County Court proceedings which had been brought by Miss Okusanya and which had been dismissed.
  - (ii) Miss Okusanya had referred in her witness statement and in her Reply to the payment of universal credit. The Directions had required the Applicant to provide details of the rent paid and of any universal credit received. Miss Okusanya had failed to provide these particulars.
10. The Tribunal concluded that it was unable to determine this application without being provided with particulars of these two issues. It therefore gave further Directions and adjourned the hearing. Both parties were encouraged to seek legal advice.

### **The Hearing**

11. Miss Okusanya appeared in person. She gave evidence. The Tribunal did not find her to be a satisfactory or a reliable witness. She was unable to answer a straight answer, even when these were framed by the Tribunal in such a way as to invite a response of either “yes” or “no”. One example was when she was asked whether she had sought legal advice. A series of questions were required before she stated that she had not sought legal advice but had searched the internet. She had not included a copy of her application in the Bundle. When shown the copy of the application which had been filed by the tribunal, she suggested that she had submitted an

amended version. After a short adjournment, it was apparent that she had not done so. At all times, she seemed to look for the answer which would best advance her case.

12. Ms Hassan appeared in person. She was assisted in presenting her case by Mr Nadeem Ali, her current partner. Ms Hassan gave evidence. Although she was not entirely consistent on all points, the Tribunal accepted her as a witness of truth whose evidence was to be preferred to that of Miss Okusanya.
13. As directed by the Tribunal, the Respondent had provided a Bundle of the documents relating to the County Court proceedings. On or about 11 August 2023, Miss Okusanya had issued Case No. K01RM901 seeking damages for unlawful eviction and harassment, together with damages pursuant to section 27 of the Housing Act 1988. She also sought an injunction for her to be readmitted to the Property. On 1 September 2023, the case was listed before District Judge Kemp. Both parties appeared in person. He ordered that the case be struck out.
14. Neither party had submitted a note as to why the claim had been struck out. Miss Okusanya stated that the Judge had concluded that the claim was a matter for this Tribunal. This was disputed by Ms Hassan who stated that he had struck it out on procedural grounds, Miss Okusanya having failed to comply with Directions. The Judge had indicated that the claim had no prospect of success. The Tribunal inquired whether either party had a note of the Judge's decision. Neither was able to provide one. When the Tribunal asked the Applicant whether she had requested a transcript of the decision, she responded that Judge Hawkes had requested this. It was quite apparent that the Judge had not done so.
15. The Tribunal is satisfied that the claim for damages for unlawful eviction and harassment, together with damages pursuant to section 27 of the Housing Act 1988 fell within the jurisdiction of the County Court. The Judge would not have directed the Applicant to this tribunal. We are further satisfied that the Judge struck it out on procedural grounds. However, we note that he did not dismiss the case on its merits.
16. Miss Okusanya did not comply with the direction in respect of universal credit. The Tribunal had directed her to email to the tribunal and the Respondent the following by 1 August 2024: (a) a calculation showing the amount of universal credit paid by the Applicant to the Respondent in respect of rent during the period for which she seeks a rent repayment order; and (b) supporting documents including statements from her universal credit journal showing the total amount of universal credit which she received out of which rent was paid to the Respondent and showing the housing element of this universal credit.
17. Miss Okusanya gave no satisfactory explanation for her failure to comply with this Direction. This information was central to her claim, as any

payment of universal credit must be taken into account in computing any RRO. Miss Okusanya eventually stated that she had been unable to provide this information as she had been on holiday.

18. At the hearing, Miss Okusanya showed the Tribunal a communication on her I-phone which indicated that on 10 July, she had been paid universal credit of £948.74 from which there was a housing benefit recovery of £53.31. The net payment was £893. This included £580 for housing, the Applicant having stated that her rent was £580. When questioned about this, Miss Okusanya stated that this was the rent which she paid for a previous tenancy. She had been unable to give the Benefits Agency details of her tenancy at the Property as Ms Hassan had refused to give her a written tenancy agreement.
19. The Tribunal is satisfied that Miss Okusanya only issued this application for a RRO because her claim in the County Court had been struck out. Further, Miss Okusanya had failed to comply with the Directions given by Judge Hawke. The Tribunal indicated that it would have been open to us to strike out the claim. However, we had decided to determine the case on its merits.

### **The Evidence**

20. The following facts were agreed by the parties:
  - (i) The Property at 66 Capel Gardens is a two storey terraced property with three bedrooms on the first floor.
  - (ii) On 4 June 2023, Ms Hassan admitted Miss Okusanya into the rear bedroom at a payment of £800 per month. The Property had been advertised on Spare Room.
  - (iii) On 12 July 2023, Miss Okusanya was evicted when Ms Hassan had changed the locks.
  - (iv) Miss Okusanya made the following payments totalling £1,600: (i) 5 June: £1,150; (ii) 20 June: £200; (iii) 10 July two payments of £200 and £50.
21. At this point there was little agreement between the parties. Ms Hassan stated that £800 of this was a deposit. Miss Okusanya stated that it was all paid as rent. The sequence of payments would suggest that £800 was required as a deposit. If this is correct, the maximum RRO that it would be open to the Tribunal could make would be £800 less any payment of universal credit.

### The Applicant's Case

22. Miss Okusanya stated that she was granted a tenancy of the rear room at a rent of £800 per month. The two other rooms were occupied by tenants, one room being occupied by an Indian youth, the other by two brothers. She was given a key to her room. She was shown an unsigned tenancy agreement, but Ms Hassan took this away so she could photocopy this. Ms Hassan was not a resident landlord. She was rather living next door at 68 Capel Gardens with her husband and four children. On 12 July, Ms Hassan changed the locks. Ms Hassan had stated that she wanted to redevelop the house. Miss Okusanya called the police. She was not allowed to return to the Property and spent the night at a nearby hotel.

### The Respondent's Case

23. Ms Hassan stated that she had owned three properties, including 68 Capel Gardens. On 10 February 2023, she divorced her husband. This is confirmed by the document at R.10 of her Bundle of Documents. She has four children who are aged between 13 and 21. On her divorce, she transferred 68 Capel Gardens into the names of her two eldest children. Her children live there with her ex-husband. She states that she is not on speaking terms with her ex-husband.
24. Ms Hassan has at all material times lived at 66 Capel Gardens. She was short of cash and allowed a Pakistani relative to occupy one room paying £600 per month. She decided to advertise a second bedroom for a lodger. However, before letting Miss Okusanya into occupation, she required proof of her identity to confirm her immigration status and references.
25. Miss Okusanya had offered to provide these. However, she had attended on 4 June in a taxi with all her belongings, but with neither proof of her identity or any references. Given the situation, Ms Hassan had allowed her into occupation on condition that the information that had been requested would be provided. On 5 June (R.4 and R.5), Ms Hassan sent Miss Okusanya text messages requesting proof of her identity and references. There is also reference to the fact that whilst the deposit had been paid, there was still £200 outstanding.
26. Ms Hassan stated that she became increasingly concerned about Miss Okusanya's behaviour. She was singing late at night and speaking to herself. She was lurking by Ms Hassan's bedroom door. She lay down on the staircase with her arms open.
27. Ms Hassan became increasingly concerned about Miss Okusanya failure to provide references (see R.6). She had sought to text her previous landlady, but there was no reply. In late June, Ms Hassan asked Miss Okusanya to look for alternative accommodation as soon as possible. On 4 July (at R.8), Ms Hassan gave Miss Okusanya seven days written notice to

vacate. When Miss Okusanya had failed to vacate, she had changed the locks. She had done a search online (at R.7). As a resident landlord, she did not need a court order. It was open to her to “peacefully evict” her lodger. She had put Miss Okusanya’s belongings outside but had taken them in when Miss Okusanya had not removed them. She was still storing them.

28. Ms Hassan denies that the police were called on 12 July. She states that her son, Amaan, rather called the police on 13 July when Miss Okusanya had attended 68 Capel Gardens demanding to be readmitted to her room. The police provided Amman with a CAD Reference (at R.9).
29. Ms Hassan accepted that £505 was payable to Miss Okusanya. She proposed to return this sum to Miss Okusanya when she attended to collect her belongings. Miss Okusanya has failed to do so. Ms Hassan has now been storing the belongings for 14 months. Given the delay, she has proposed a storage fee of £3 per day.
30. The Tribunal suggested that the parties might settle the case on terms that upon Miss Okusanya collecting her belongings, Hassan would refund a sum of £600. This would be in full and final settlement of their dispute. Ms Hassan was agreeable to this; Miss Okusanya was not.
31. The following emerged through questioning:
  - (i) Ms Hassan accepted that there was a lock to Miss Okusanya’s room.
  - (ii) Miss Okusanya was insistent that the police had attended on 12 July, but was unable to provide any police reference.
  - (iii) Miss Okusanya accepted that she had been required to provide proof of identity. She stated that she was unable to do so as she had sent her passport to be renewed.
  - (iv) It was common ground that Miss Okusanya was in receipt of universal credit. She would therefore have been entitled to rent accommodation.
  - (v) Miss Okusanya accepted that she sang to herself. She stated that she prayed aloud.
32. The only evidence produced relating to the offence of “control or management of an unlicensed HMO” was an email from Kashef Hameed, a housing enforcement officer (at R.11). He carried out an inspection on 2 October 2023, in response to a complaint from Miss Okusanya. He was satisfied that the Property was occupied by Ms Hassan’s family and a relative. No HMO licence was required.

### **The Tribunal's Determination**

33. We prefer Ms Hassan's evidence to that of Miss Okusanya. We are satisfied that Ms Hassan is divorced from her husband who lives at 68 Capel Gardens. Ms Hasan occupies the Property at 66 Capel Gardens as her principal residence. She would therefore have been a resident landlord.
34. On balance, we are satisfied that Miss Okusanya was admitted into the Property as a lodger. She shared the kitchen and bathroom with Ms Hassan. This would have been an "excluded licence" as defined by Section 3A of the Protection from Eviction Act 1977.
35. We are satisfied that Ms Hassan admitted Miss Okusanya into occupation on 4 June 2023, on condition that she would provide the proof of identity and references which had been requested. Miss Okusanya failed to provide these. Ms Hassan was particularly concerned about the absence of the references. We suspect that Miss Okusanya was never in a position to provide these.
36. A licensor is entitled to terminate a licence by giving reasonable notice. This would normally be a month when the rent is paid monthly. However, having regard to the facts of this case, we are satisfied that one week's notice was sufficient. Miss Okusanya had been admitted into occupation of condition that she would provide references. She did not do so. Further, her conduct gave cause for concern.
37. In the light of these findings, the Applicant has failed to satisfy us to the criminal standard that any of the offences upon which she relies have been proved:
  - (i) Violence for securing entry contrary to section 6(1) of the Criminal Law Act 1977: The Applicant has adduced no evidence that the Respondent used violence to secure entry to the Property.
  - (ii) Unlawful eviction contrary to section 1(2) of the Protection from Eviction Act 1977: The Applicant has not satisfied us to the criminal standard of proof that the eviction on 12 July was unlawful. We reject the suggestion that the Applicant was an assured shorthold tenant. Neither do we accept that the Respondent changed the locks because she wanted to develop the Property. The Respondent did so, because the Applicant had failed to provide the information which she had agreed to provide.
  - (iii) Harassment contrary to sections 1(2) and (1(3) of the Protection from Eviction Act 1977. No particulars of harassment have been pleaded. None have been proved.



(iv) Control or management of an unlicensed HMO contrary to section 72(1) of the Housing Act 2004. The Applicant has failed to establish that the Property was an HMO that required a licence.

38. The Applicant has therefore failed to prove the commission of any offence that would entitle the Tribunal to make a RRO. Even had an offence been proved, the maximum award that RRO that it would have been open to Tribunal to make would £220, namely £800 (the rent paid) less £580 (the universal credit received). Deductions would have been made from this sum having regard to the factors specified in section 44(4) of the 2016 Act.
39. If Miss Okusanya wishes to collect her belongings, she should do so at the earliest opportunity. There is no obligation on Ms Hassan to store them indefinitely.

**Judge Robert Latham**  
**3 September 2024**

#### **RIGHTS OF APPEAL**

1. By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.
2. 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.
3. 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.
4. 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.
5. 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.
6. If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).