



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

Case reference : **BIR/00FY/HMK/2024/0030**

Property : **1 Mingle Lane
Great Shelford
Cambridge
CB22 5BG**

Applicant : **Benjamin Dugan & Andre Withers**

Representative : **None**

Respondent : **Tariq Javed Aslam**

Representative : **None**

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

Tribunal member : **Mr G S Freckelton FRICS (Chairman)
Mr A McMurdo MSc, MCIEH**

Date of hearing : **10th October 2024 by video hearing**

Date of decision : **17th October 2024**

DECISION

Introduction

1. By application dated 11th June 2024, the Applicants (Tenants of the Property), applied to the First-tier Tribunal for a rent repayment order in respect of, 1 Mingle Lane, Great Shelford, Cambridge, CB22 5BG.
2. The Tribunal issued Directions on 27th June 2024 following which written submissions were made by both parties and the matter was set down for a video hearing on 10th October 2024.
3. Based on the Application Form and submissions provided by the parties the Tribunal understood:

That the Applicants vacated the property on or about 22nd March 2023.
That the date of the Application to the Tribunal was 11th June 2024.

4. Section 41 of the Act states:

2) A tenant may apply for a rent repayment order only if-

a)

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

5. It therefore appeared to the Tribunal that the Application may be invalid, as the date of the Application was more than 12 months from the date the offence ceased which in this case is the date the Applicants vacated the property.
6. The Tribunal therefore issued Directions dated 9th September 2024. The Directions confirmed that the Tribunal would then proceed with a video hearing dealing only with this preliminary issue. In accordance with the Directions, the Applicants made a written submission. No written submission was received from the Respondent.
7. The case was listed for an oral hearing by video link. The hearing took place on 10th October 2024 and dealt only with the preliminary issue. This decision states the Tribunal's determination on the preliminary issue and the reasons for it.

Applicant's Submissions

8. In their written submission and at the hearing the Applicants submitted:
 - a) That on 27th February 2024, they submitted their application for a rent repayment order to the Southern Region of the Tribunal.
 - b) That on the same date they received an email from the Southern Region confirming that as the property was situated in Cambridge, they had sent it to the Eastern Regional Office of the Tribunal.
 - c) That the Applicants heard nothing further until 11th June 2024 when Eastern Region informed them by email that their application was not signed. They both signed the Application and returned it to the Eastern Regional Office on the same date.
 - d) On 12th June 2024 the application was transferred to the Midland Region as there was determined to be a potential conflict of interest with the Eastern Region dealing with it.

- e) Therefore, in the submission of the Applicants, the Application had been made within the time limit specified in the Act and it was therefore valid. In their submission, it was not important that they had omitted to sign the application and it was not their fault that it had taken the Tribunal almost four months to make them aware of this omission.
- f) That they had informed the Respondent when they originally submitted the Application on 27th February 2024, so he was aware of their intention to apply for a rent repayment order.

Respondents' Submissions

- 9. At the hearing the Respondent submitted:
 - a) That in his opinion the application was not valid until it was signed. As this was not until 11th June 2024, the application was not valid until that date and was therefore out of time.
 - b) As an example, the Respondent submitted that if he had applied for a passport and had not signed the application form, then his application would not be valid and therefore would not be accepted. In his submission, signing the form was a basic part of making the application.
 - c) That after being informed by the Applicants that they intended to make an application to the Tribunal in February 2024, he heard nothing further until June 2024 and therefore assumed that the application had not been made. When he did hear from the Tribunal in June 2024 the date of the application was stated as being 11th June 2024, which was more than twelve months from the date any alleged offence ceased. In his opinion, the application was therefore invalid.

Determination

- 10. The Tribunal has considerable sympathy with both parties in this case and can see obvious merit in both their arguments.
- 11. The Tribunal has no doubt that the Applicants sent their application to the Southern Regional Office on 27th February 2024. Indeed, on 12th June 2024, an email was sent from the Eastern Regional Office to the Midland Regional Office which stated:

'As per the below, please see the application and emails attached. This was originally sent to the Southern Office on 27 February 2024. We haven't taken payment yet, so that will need to be done by your team'.

The email was signed by Laura Lawless, a Legal Officer at the Tribunal Office.

- 12. The Tribunal is aware that there are potentially significant sums of money involved in this application which could have a considerable impact on both parties. In their application Mr Benjamin Duggan applies for a repayment order of £4,750.00 and Mr Andre Withers for a repayment order of £3,750.00.

13. Rule 8 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 states:

(1) An irregularity resulting from a failure to comply with any provision of these Rules, a practice direction or a direction does not of itself render void the proceedings or any steps taken in the proceedings.

(2) If a party has failed to comply with a requirement in these Rules, a practice direction or a direction, the Tribunal may take such action as the Tribunal considers just, which may include-

(a) Waiving the requirement

14. In this case the Tribunal accepts that the application for a rent repayment order made by the Applicants was validly made on 27th February 2024, when it was submitted to the Southern Regional Office.

15. The Tribunal is also of the opinion that it would not be in the interest of justice to deny the Applicants the right to proceed with their application in this case.

16. The Tribunal therefore determines that the Application is valid and it will proceed to determine the substantive application for a rent repayment order.

17. At the video hearing the Tribunal discussed with both parties how it might proceed, if the Tribunal came to this decision.

18. The Tribunal noted that in the original application the Applicants had requested the matter to be dealt with by way of a paper determination (without a hearing) and in view of the detailed submissions made, both parties confirmed that they were prepared for the Tribunal to proceed on that basis.

19. The Tribunal has therefore determined that it will, if possible, proceed to determine the application by way of a paper determination (without a hearing). If the Tribunal considers that a further hearing is required, the parties will be notified accordingly.

20. To enable it to proceed with its determination, the Tribunal will issue Further Directions shortly.

Appeal

21. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Graham Freckelton FRICS
Chairman.
First-tier Tribunal (Property Chamber)