FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AU/HMF/2024/0055**
Property	**:**	**Flat 1, 21 Hamilton Park, London, N5 1SH**
Applicants	**:**	**Yola Monika Lohr** **Mihaela Stancheva** **Jessica Carroll** **Aisha Kitwana**
Representative	**:**	**Jamie McGowan, Justice for Tenants**
Respondents	**:**	**Hetal Gandhi (1)** **RARS Properties Limited (2)**
Representative	**:**	**Hetal Gandhi**
Type of Application	**:**	**Application by Tenant for rent repayment order. Sections 40,41, 43 & 44 of the Housing and Planning Act 2016**
Tribunal	**:**	**Judge Bernadette MacQueen** **Mr S Wheeler MCIEH, CEnvH**
Date of Hearing	**:**	**13 September 2024**
Date of Decision	**:**	**4 November 2024**

DECISION

DECISION

1. The Tribunal finds that RARS Properties Limited committed the offence of failing to license a House in Multiple Occupation (HMO) under the provisions of section 72(1) of the Housing Act 2004, and that accordingly a rent repayment order in favour of the Applicants could be made. The Tribunal makes a rent repayment order of £7,519.34 for the period 10 September 2022 until 23 January 2023 and this must be paid by RARS Properties Limited to the Applicants within 28 days of the date of this decision.

2. The Tribunal also orders the reimbursement of the Tribunal fees that the Applicants paid (both the application fee and hearing fee) and this amount must be paid by RARS Properties Limited to the Applicants within 28 days of the date of this decision.

Background

3. The Applicants made an application for a Rent Repayment Order (RRO) alleging that the Respondents had committed the offence of having control of, or managing, an unlicensed HMO under section 72(1) Housing Act 2004, which is an offence under section 40(3) of the Housing and Planning Act 2016.

4. The Applicants and Respondents agreed that the Property was within an additional licensing area as designated by the London Borough of Islington. This scheme came into force on 1 February 2021 and will cease to have effect on 1 February 2026. This scheme was implemented across the whole of the Borough of Islington.

The Property

5. The Property was a four-bedroom self-contained flat on the 1st floor of a two-storey building. It had a shared kitchen and bathroom.

6. The Applicants stated in their application that they paid rent of £15,051.58 for the period 28 June 2022 to 23 January 2023. However, the Applicants amended this within their statement of case and clarified that the relevant period was 10 September 2022 to 21 January 2023, with the total amount claimed being £12,488.77.

7. In reply, the Respondents told the Tribunal that £12,488.77 included £920.55 which had been paid before the offence was committed. The Respondents therefore submitted that the correct amount should be £11,568.22. The Applicants accepted this position and therefore the relevant period that the Tribunal was considering was 10 September 2022 to 23 January 2023 (the Relevant Period) and the whole of the rent for the Relevant Period was £11,568.22.

The Hearing

8. The Directions made on 12 April 2024 had required each party to prepare a bundle of relevant documents for use at the hearing and to send these to each party and the Tribunal.

9. The Applicants provided a bundle of documents that consisted of 191 pages, a response to the Respondents' submissions consisting of 7 pages and a skeleton argument, with authorities. The Respondents provided a bundle consisting of 86 pages, an additional letter from Islington Council, information comprising 2 pages and a skeleton argument.

10. All of the applicants with the exception of Mihaela Stancheva attended the hearing and were represented by Jamie McGowan. Hetal Gandhi attended the hearing on behalf of the Respondents.

Preliminary Issue – Applicant's Skeleton Argument and Late Submission of Documents

11. The Respondents asked the Tribunal to dismiss the case because of the Applicants' non-compliance with the Tribunal's Directions. The Respondent told the Tribunal that the Applicants had submitted their bundle late as it was emailed on 14 and 16 May 2024 and the skeleton argument should have been submitted by 5pm on 9 September 2024 but was not submitted until 11 September 2024.

12. In terms of the Applicants' bundle being submitted late, the Respondents submitted that the bundle was not emailed to the Tribunal until 14 May 2024, with a further bundle being submitted on 16 May. This therefore meant that the bundle was submitted late because the Directions made on 18 March 2024 had required the bundle to be submitted by 13 May 2024.

13. Whilst the Tribunal noted that the bundle was indeed served late, it was satisfied that there was no prejudice because there had been sufficient time for the Respondents to consider the bundle and submit their evidence. In reaching this decision, the Tribunal considered the overriding objective and its duty to deal with cases fairly and justly within the Tribunal Procedure (First-tier Tribunal) Property Chamber 2013 Rules and the need to seek flexibility and ensure that parties are able to participate fully.

14. The Applicants' representative apologised for submitting the skeleton argument late but confirmed that, in the skeleton argument, no new submissions had been made. Instead, the skeleton argument had concentrated on whether the application had been submitted in time.

15. The Tribunal was satisfied that the Applicants should be able to rely on their skeleton argument. The Tribunal was satisfied that, although the skeleton argument was dated 11 September 2024, the Applicants had

notified the Respondent of the points they would be raising, and did this by email on 9 September 2024. The skeleton argument had been sent to the Respondents in advance of the hearing, and in any event the Tribunal had offered additional time to the Respondents to read the Skeleton argument at the hearing.

16. The Tribunal was therefore satisfied that the Applicants filing their skeleton argument late did not prejudice the Respondents as sufficient time had been given for the Respondents to read and digest what the Applicant was saying.

Preliminary Issue - Was the Rent Repayment Order Application made in Time?

17. The Respondents contended that the application for a (RRO) had been made out of time.

18. The was no dispute that on 24 January 2023 the Respondent had made an application to Islington Council for a licence. Parties therefore agreed that the Respondent had a defence under section 72(4) (b):

> " In proceedings against a person for an offence under subsection (1) it is a defence that at the material time –
>
> (a) ....
>
> (b) an application for a licence had been duly made in respect of the house under section 63".

19. The Tribunal accepts this and finds that the defence in section 72(4)(b) takes effect from the first moment of the day, so that the last moment on which the offence was committed was 23 January 2023.

20. Turning to when the RRO application was made, section 41(2)(b) Housing and Planning Act 2016 provides that:

> "(2) A tenant may apply for a rent repayment order only if:
>
> …(b) the offence was committed in the period of 12 months ending with the day on which the application is made.

21. The Applicants made their application for a RRO at 22:45 on 22 January 2024. It was the Applicants' position that this meant that the application was in time whereas the Respondents submitted that the application was out of time.

Respondent's Submissions that Application was out of time

22. It was the Respondents' position that this application was out of time because 12 months from 23 January 2023 (the last date the offence was committed) was 22 January 2024. The Respondents' position was that the earliest point in time that the application was submitted was 23 January 2024, thus making the application out of time.

23. The Respondents relied on rule 15 Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rule) which states that:

> "15. (1) An act required by the Rules, a practice direction or a direction to be done on or by a particular day must be done before 5pm on that day".

24. The Respondents submitted that because sending an application was an act required by rule 26 (1) of the Rules, the effect of rule 15 was that the RRO application was not made until 23 January 2024 as it was not sent to the Tribunal until 22:45 on 22 January 2024.

25. The Respondents further submitted that because the RRO fee was not received until 18 March 2024, the RRO application could not be considered made until 18 March 2024. The Respondents relied on rule 26(5) which states that "the applicant must provide with the notice of application any fee payable to the Tribunal".

Applicant's Submissions that RRO Application was made in time

26. The Applicants' position was that the RRO application was in time because it was made on 22 January 2024. The Applicants submitted that the fact that the application was made at 22:45 on 22 January 2024 did not alter the position that the application was still made on 22 January 2024.

27. In relation to the application not being made until the fee was paid, the Applicants submitted that the requirement when making an application is only that the application is made before the expiry of the 12 months, not that the fee is paid. This meant that the delivery of the application was capable of being completed outside of office hours and the fee paid at a later date. Further, the Applicants submitted that an application for a RRO under the Housing and Planning Act 2016 is not caught by rule 15 of the Rules as it not "an act required by these Rules, a practice direction or directions" and so the time limit in rule 15 does not apply.

Tribunal Decision – Was the RRO Application made out of time?

28. The Tribunal finds that the RRO application was made in time. In reaching this decision the Tribunal has had to look at two time periods:

    a. the period when the defence in section 72(4)(b) Housing Act 2004 takes effect and
    b. the section 41(2)(b) Housing and Planning Act 2016 requirement that "the offence was committed in the period of 12

months ending with the day on which the [Rent Repayment] application is made" .

29. The Tribunal finds that the RRO application was made in time and will set out its reasons for this finding. However, so that the decision is clear, the Tribunal first sets out its findings in relation to the relevant time periods:

a. The Tribunal finds that the Respondent made an application for a licence on 24 January 2023 and therefore finds that the last day on which a licensing offence was committed was 23 January 2023.

b. The Tribunal finds that the Applicants made an application for a RRO on 22 January 2024; therefore, the application was in time, the relevant 12-month period being 23 January 2023 to 22 January 2024.

Reasons for Finding the Application was made in time

30. The Tribunal accepts the evidence of the Respondents that they had made an application to the Council for a licence on 24 January 2023 at around 12 noon. The Tribunal finds that the effect of this is that the last date that the licensing offence was committed was 23 January 2023.

31. Turning to the date the RRO application was made, the Tribunal accepts the evidence of the Applicants that the RRO application was made to the Tribunal at 22:45 on 22 January 2024. To be made in time, the RRO application must be made within the 41(2)(b) Housing and Planning Act 2016 requirement namely that "the offence was committed in the period of 12 months ending with the day on which the [Rent Repayment] application is made". The Tribunal found that the Applicants made their

application on 22 January 2024 and therefore within the relevant time period of 23 January 2023 to 22 January 2024. The licensing offence was still being committed on 23 January 2023 and therefore the RRO application which was made on 22 January 2024 was in time under section 41(2)(b).

32. The Respondents sought to argue that the application was not made on 22 January 2024 but rather made after this date. The Respondents made two arguments in this regard, firstly that the Tribunal's own procedure rules did not allow applications to be made after 5pm and secondly tha,t because an application fee was not paid on 22 January 2024, the application was not actually made until that fee was paid. The Tribunal does not accept either of these submissions.

33. Turning firstly to the submission that the Tribunal's own rules do not allow for an application to be accepted as being made at 22:45, the Tribunal does not accept that submission. The Respondents relied on rule 15 Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rule) which provides that:

> "15. (1) An act required by the Rules, a practice direction or a direction to be done on or by a particular day must be done before 5pm on that day".

34. The Respondents submitted that making an RRO application is caught by rule 15 as rule 26 (1) of the Rules states that "an applicant must start proceedings before the Tribunal by sending or delivering to the Tribunal a notice of application".

35. The Tribunal does not accept that argument. Rule 15 is specifically speaking to an act that is required by the Rules, a practice direction or directions. However, an application for a RRO is governed by statute

and statute takes precedence; therefore it is that statute that governs the limitation periods. The wording of section 41(2)(b) is clear "12 months ending with the day on which the application was made". The time of day the application is made is not relevant – the wording of the statute is "ending on the day", and in this case the application was made on 22 January 2024.

36. Turning to the submission that a RRO application is not made until a fee is paid, the Tribunal does not accept this submission. The Tribunal does not accept the argument put forward by the Respondents that the effect of Rule 26(5) is that the Applicants had to provide with the notice of application any fee payable to the Tribunal. Rule 26(5) provides that "the applicant must provide with the notice of application any fee payable to the Tribunal".

37. It is common ground that the Tribunal fee was not received by the Tribunal until 18 March 2024. The Respondents submitted that the application could not be considered complete until the fee was received.

38. The Tribunal finds that the Tribunal's application form is designed to allow an application to be made online without the fee being paid at the point it is submitted. On the application form completed by the Applicants, they had ticked the box which stated as follows:

> "You can now pay the fee (if applicable) by an on-line banking payment or by cheque /postal order enclosed with the application form. To request that you should be sent details for paying by on-line banking please tick the box"

39. As a result of ticking this box, the Applicants were sent details of how to make their electronic payment and were required to make this payment within 14 days from the date the request was made.

40. The Tribunal is therefore satisfied that the Applicants followed the procedure in the way that was envisaged by the Tribunal and indeed, it would not have been possible for them to make a payment until details of how to make the electronic payment had been sent to them. The effect of this is therefore that the fee does not become payable until the applicant is notified of how the fee is to be paid.

41. The Tribunal is therefore satisfied that the date the fee is paid does not determine the date when the application was made.

42. The Tribunal therefore finds that the RRO application was made in time, the last day of the offence being 23 January 2023. The application for a RRO was submitted on 22 January 2024 and therefore the offence was committed in the period of 12 months ending with the day on which the application was made.

Rent Repayment Order

The Law

43. Section 41(1) Housing and Planning Act 2016 states:

> "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"

Section 43(1) Housing and Planning Act 2016 states:

> "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 had been convicted)"

44. Section 40(3) Housing and Planning Act 2016 defines "an offence to which this Chapter applies" by reference to a table. The offence under section 72(1) Housing Act 2004 (control or management of unlicensed house) is within that table.

Section 72(1) Housing Act 2004 provides:

"A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part but is not so licensed."

45. It was not disputed that the Property was within the area covered by the additional licensing scheme. This scheme required a licence if a property was occupied by at least three people living in two or more separate households and occupying the property as their main residence.

Occupation of the Property During the Relevant Period

46. The Applicants submitted that during the relevant period (10 September 2022 to 23 January 2023) the Property was occupied by at least three people living in two or more separate households occupying the property as their main residence as follows:

- Mihaela Stancheva lived at the Property 07/09/2022 – 19/08/2023
- Jessica Carrol lived at the Property 10/09/2022 – 19/08/2023
- Yola Lohr lived at the Property 20/08/2022 – 19/08/2023
- Aisha Kitwana lived at the Property 15/09/2022 – 19/08/2023

Respondents' Submission that Applicants formed a Single Household

47. The Respondents submitted that the Property was rented out as a whole under one tenancy agreement. The Respondents supported this assertion by submitted that the Property was only viewed by one of the Applicants (Yola Lohr) prior to it being rented out. It was the Respondents' position that the Applicants were all students and good friends and therefore they would be considered to be a single household.

48. The Respondents supported this argument by referring to an HMRC decision VCOONST14000 (exhibit E of the Respondents' bundle). The Respondents further submitted that the definition of a single household in section 258 of the Housing Act 2004 applied. The Respondents argument was set out at page 3 of their skeleton argument, but in particular the Respondents stated that as no other national authority had defined a group of students, and the HMRC was a national authority, it could be considered the "appropriate national authority", in which case the applications were a single household and an additional licence would not be required.

Tribunal's Findings in Relation to Respondents' Single Household Submissions

49. The Tribunal does not accept the submissions of the Respondents with regard to the Respondents being a single household. The Tribunal accepts the evidence of the Applicants that they occupied the Property living as separate households. The Applicants all set out in their statements how they had become friends and the interests that they shared, however they all confirmed that they did not form a single household. The Tribunal accepts their evidence as an accurate description.

Use of the Property

50. The Respondents did not challenge that the Applicants' occupation was the only use of the Property, and that rent was paid by the Applicants.

51. The Tribunal is therefore satisfied beyond reasonable doubt that the Property was an HMO within the additional licensing scheme. The Property required a licence because it was occupied by at least three persons living in two or more separate households, sharing a kitchen and bathroom and occupying the Property as their main residence during the relevant period, 10 September 2022 to 23 January 2023.

Person having Control of or Managing

52. The section 72(1) offence is committed by the person having control/managing the Property. Section 263(1) Housing Act 2004 defines "person having control" in relation to the premises as "the person who received the rack-rent of the premises (whether on his own account or as agent or trustee of another person)". It was the Applicants' position that both Hetal Gandhi and RARs Properties Limited were capable of having control/managing the Property.

53. Section 263(3) defines "person managing" the Property as the person who, being an owner or lessee of the premises (a) receives (whether directly or through an agent or trustee) rents or other payments from (i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises.

54. The land registry document (page 165 of the Applicants' bundle) showed only RARs Properties Ltd as the registered proprietor and the tenancy agreement (page 112 of the Applicants' bundle) stated the landlord as Mr Hetal Gandhi, Company RARs Properties Limited.

55. The Tribunal therefore finds that the Respondent should be RARS Properties Ltd, it now being well established that a RRO may only be made against the immediate landlord.

Statutory Defence and /or Reasonable Excuse

56. The Respondents raised the defence of reasonable excuse. Their position was, in particular, that they were not professional landlords and the Council and a previous agent should have ensured the Property was licensed.

57. It was the Respondents' position that the Property was the only property owned by RARs Properties Ltd and therefore they could not be viewed as a professional landlord.

58. Further the Respondent stated that Islington Council had a requirement whereby all tenancies must be registered with them, and therefore the Council was aware that all four Applicants were living in the Property. The Council should therefore have done more to notify them of the licensing requirement. The Respondents took the Tribunal to page 27 of the bundle where there was a copy of the sub-let registration form for Islington Council which the Respondent said he had completed and, at page 31, a letter that RARs properties had received from the Home Ownership Services of Islington Council which explained that it was necessary to register any new sublet.

59. Further, the Respondents had completed a change of tenancy form for Council Tax purposes and so the Council was aware that four people were living at the Property. At page 36 of the bundle the Respondents had exhibited the change of tenancy submission they had made to the Council Tax department. Added to this, it was the Respondents' position that the Council was sending service charge invoices to the Respondents' home address and so it was the Respondents' position that the Council was aware that the Property was rented. The Respondents included at page 32 of the bundle an invoice for the annual service charge for the Property which was sent to RARs Properties at "7 Cherry Tree Way". The Respondents argued that this demonstrated that the Council knew the Property was being let out. Finally, the Respondents submitted that the

Council was aware that the Property was rented through the electoral register.

60. It was therefore the Respondents' position that the Council was aware the Property was rented and should have alerted them of any licensing requirements.

61. The Respondents also submitted that the Council did not consult the Respondents before making the designation, and also did not inform the Respondents that they had made the designation as required by Housing Act 2004 (sections 56(3) and 61(4) respectively). The Respondents adduced an email that had been received by them from Islington Council's property licensing team which was dated 29 July 2024. This email told known landlords and agents about an extension to the selective licensing scheme area. It was the Respondents' submission that the Council should have notified them of the additional licensing scheme in this manner when it was first introduced and that the Council had failed to do this. Had it done so, the Respondents would have been aware of the licensing requirements and would have been able to license the Property.

62. Further the Respondents submitted that when the licensing scheme came into effect (1 February 2021), the Property was rented though an agent, Hotblack Desiato Ltd. To support this assertion, the Respondents exhibited an invoice dated 3 February 2021 to RARs Properties Ltd which was an invoice that described the letting and commissioning of the Property for the period 20 February 2021 to 19 August 2021 (page 37 of the Respondents' bundle). It was the Respondents' position that despite engaging Hotblack Desiato Ltd, they did not alert the Respondents to the licensing scheme.

Tribunal Findings – Reasonable Excuse

63. The Tribunal does not accept the Respondents' position that because the Council had failed to notify them of the need to hold a licence they had a reasonable excuse. Whilst Islington Council may have been aware that

the Property was being let, this would not place an obligation on the Council to notify the Respondent of the need to hold a licence.

64. Councils are made up of many different departments that have very different functions. Therefore, the fact that the Council's electoral register or Council Tax department or indeed any other department was aware the Property was being rented does not mean that this places a duty on the Council to notify individual landlords of licensing requirements.

65. There was no evidence before the Tribunal that the Council had in any way failed in its statutory duty when introducing the additional licensing scheme and therefore the Tribunal finds on a balance of probabilities that the Respondents did not have a reasonable excuse either on the grounds that the Council did not consult properly or that the Council should have notified them of the licensing provisions.

66. Further, the Tribunal does not accept the position of the Respondents that Hotblack Desiato's failure to inform them of the licensing scheme means that they have a reasonable excuse. Whilst the Tribunal accepts that the invoice produced by the Respondents is dated two days after the licensing scheme came into effect, the Tribunal does not have any detail as to the contractual obligations between the Respondents and Hotblack Desiato Ltd and therefore the Tribunal is not satisfied that there was any obligation for Hotblack Desiato Ltd to notify the Respondents of any licensing obligations.

Should the Tribunal Make a Rent Repayment Order (RRO)?

67. Section 43 Housing and Planning Act 2016 provides that the Tribunal may make a RRO if it is satisfied beyond reasonable doubt that the offence has been committed. The decision to make a RRO award is therefore discretionary. However, because the offence was established the Tribunal finds no reason why it should not make an RRO in the circumstances of this application.

Ascertaining the Whole of the Rent for the Relevant Period

68. As set out above, the Tribunal ascertained that the whole of the rent for the relevant period was £11,568.22. This was the rent as set out at page 119 of the Applicants' bundle with the reduction of £920.55.

69. The Applicants confirmed to the Tribunal that they were not in receipt of a housing element of Universal Credit or Housing Benefit.

Deductions for Utility Payments that Benefit the Tenant

70. It was accepted by both parties that the Applicants were liable to pay all charges in relation to the supply and use of utilities and therefore no deduction was warranted.

Determining the Seriousness of the Offence to Ascertain the Starting Point

71. The Tribunal had to consider the seriousness of the offence compared to other types of offences for which a RRO could be made, and also as compared to other examples of the same offence.

72. In determining the seriousness of the offence, the Tribunal adopted Judge Cooke's analysis in Acheampong v Roman [2022] that the seriousness of the offence could be seen by comparing the maximum sentences upon conviction for each offence. Using this hierarchical analysis, the relevant offence of having control of or managing an unlicensed house would generally be less serious. However, the Tribunal had to consider the circumstances of this particular case as compared to other examples of the same offence.

Conduct of Landlord and Tenant

73. The Applicants identified four areas of concern, namely fire safety, mould, maggots and the size of the smallest room.

74. In terms of fire safety, the Respondents confirmed that the fire alarms were not interlinked smoke and heat alarms. Yola Lohr stated that it was not until 14 April 2023 that the landlord contacted her to arrange a time when someone could fit interlinked smoke and heat alarms. This assertion was accepted by the Respondents The Tribunal therefore accepts the evidence that the Property did not have interlinked smoke and heat alarms and finds this to be relevant because at page 186 of the Applicants' bundle the Islington Standards for HMOs specified that HMOs must be provided with an appropriate smoke detection and alarm system and as a minimum, interlinked mains wired smoke alarms (with battery back-up) must be kept maintained in proper working order.

75. Yola Lohr's evidence to the Tribunal was that in, December 2022,the main lock broke. The messages describing this incident were at page 87 of the Applicants' bundle. The Applicants confirmed that the lock had to be removed to allow the tenants to get out of the Property. The Applicants stated that they had to lock the door to keep it shut which was a fire hazard. The Respondents stated that there was a third lock and so the door did not need to be locked. However, the Tribunal accepts the evidence of the Applicants that the lock broke and a fire hazard was caused because the door had to be locked shut.

76. The Applicants told the Tribunal that there was mould at the Property. However, it was the Respondents position that they had done all they could to alleviate this issue. In particular, the Respondents had sent an email telling tenants not to dry clothes inside the Property and gave advice about opening windows, using a dehumidifier and heating the Property (page 65 of the Respondents' bundle).

77. Additionally, at page 70 of the Applicants' bundle was an email dated 23 February 2023 from Islington Council which confirmed that the mould growth was "lifestyle condensation" and that no structural works by the landlord were required.

78. The Tribunal is therefore satisfied that the Respondents had taken steps to resolve the mould issue and that this is not an aggravating factor given the action the Respondents had taken.

79. In relation to maggots, the Tribunal accepts the evidence of Yola Lohr that when she moved in there were maggots inside the Islington Council bin; however, the Tribunal also accepts the Respondents' evidence that the Property had been professionally cleaned before the Applicants moved into the Property and it was likely that a bin had been missed and not emptied which resulted in maggots. The Tribunal accepts that the Respondents had taken steps to have the Property professionally cleaned before the Applicants moved into the Property and the Respondent expected as part of this clean that all bins would have been emptied.

80. Finally, as to the size of the room, the Tribunal accepts that the Applicants and Respondents were told by an officer from Islington Council that one of the bedrooms did not meet the legal size requirements to be rented. The Respondents accepted that the smallest bedroom was small but stated that there was another small room so the Applicant who had the smallest bedroom also had the exclusive use of the additional small room. Whilst the Tribunal notes the Respondents' mitigation, this does not take away from the fact that the room used fell below the room standards.

Conduct of the Landlord

81. The Respondents submitted that they engaged with the Applicants in a very helpful manner and tried to resolve all matters raised as quickly as possible. Additionally, the Respondents told the Tribunal that they had a British Gas Homecare agreement, which they paid for, to ensure that the tenants always had ready access to support should there be a heating, plumbing, drainage or electrical emergency.

82. Further the Respondents submitted that they complied with their obligations to carry out annual gas safe checks, had an EICT certificate and also protected the tenants' deposit.

83. The Respondents further submitted that the Applicants had left the Property in an untidy and dirty state, and did not take all of their possessions with them when they left.

Financial Circumstances of Respondent Landlord

84. The Tribunal was not presented with any evidence that the Respondents would not be able to meet any financial award the Tribunal made.

Whether Respondent Landlord has been convicted of offence

85. The Respondents confirmed that they did not have any convictions identified in the table at section 45 Housing and Planning Act 2016, and there was no evidence before the Tribunal that this was not the case.

Quantum Decision

86. Taking all of the factors outlined above in account, the Tribunal finds that this licensing offence was not the most serious under the 2016 Act. Taking the relevant factors of this particular case into account as set out in the findings above, the Tribunal finds that a RRO of 65% should be made. The Tribunal is satisfied that utilities were paid by the Applicants and so no deduction for utilities is made.

Total Claim - £11,568.22

65% of which gives a **total amount of £7,519.34.**

87. The Tribunal orders that the payment be made in full within 28 days.

88. The Applicants provided a schedule setting out the amounts paid at page 119 of the Applicants' bundle. However, given that these amounts have been amended, the Tribunal orders the amount payable as a total figure to Yola Monika Lohr for the period 10 September 2022 to 23 January 2023 on behalf of all of the Applicants.

Application Fees

89. The Tribunal invited the parties to make representations as to whether or not the Respondents should refund the Applicants' fees paid to the Tribunal. The Applicants asked the Tribunal to make such an order, whereas the Respondents requested that this order was not made. The Respondents highlighted that the Applicants had not followed directions and therefore the Applicants' Tribunal fee should not be refunded.

90. The Tribunal does not find that there was any prejudice to the Respondents because the Applicants had produced documents after the directions. Given that the Tribunal has made a RRO, the Tribunal exercises its discretion to order that the Respondent must pay the Applicants' Tribunal fees. This amount shall be paid within 28 days.

Judge Bernadette MacQueen Date: 4 November 2024

ANNEX – RIGHTS OF APPEAL

1. 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 at the Regional Office which has been dealing with the case.

2. 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.

3. If the application is not made within the 28-day time limit, such application must include a request to 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.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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.