



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

Case reference : LON/00AG/HMG/2024/0038

Property : Flat 6, 102-104 Whitfield Street, London
W1T 5BT

Applicant : Mr Hakan Tuyunuklu

Representative : In person

Respondent : Dr Mohammed Akmal

Representative : Dr Serap Akmal

Type of application : Application for a Rent Repayment Order

Tribunal member(s) : Judge Brandler
Mr A Fonka, MCIEH CEnvH M.Sc

Venue : 10 Alfred Place, London WC1E 7LR

Date of hearing : 18 November 2024

Date of decision : 2 December 2024

DECISION

Decision of the tribunal

(1) The Application is dismissed.

The relevant legislative provisions are set out in an Appendix to this decision.

Reasons for the tribunal's decision

Background

1. By an application dated 09/04/2024 Mr Hakan Tuyunuklu (“the applicant”) applied for a Rent Repayment Order (“RRO”) in respect of rent paid to Dr Mohammed Akmal (“the respondent”). The period of claim was not specified in the application form, but at the hearing the applicant asked that the Tribunal make an order for the period from 01 April 2024 to 18 November 2024.

2. The applicant alleges that the respondent committed the following offences in relation to Flat 6, 102-104 Whitfield Street, London W1T 5BT (“the property”)

- (i) Persistent failure to conduct mandatory gas safety checks
- (ii) Maintaining uninhabitable living conditions
- (iii) Engaging in harassment and intimidation of the applicant
- (iv) Violation of the applicant’s rights under the Equality Act 2010

3. The particulars of the allegations made by the applicant are that:

- (i) From July 2021 to date the respondent has failed to provide a valid gas safety certificate, causing the applicant “*profound distress, anxiety, and fear for my well-being within my own home*”
- (ii) From October 2021 to date the respondent and his wife have engaged in a campaign of unlawful eviction attempts and harassment contrary to s.1 Protection from Eviction Act 1977, as well the Protection from Harassment Act 1997, which include:
 - (a) Serving multiple invalid and misleading notices to quit
 - (b) Making baseless and vexatious accusations of rent arrears and demanding payments without justification
 - (c) Threatening to report him to various authorities on unfounded grounds in an attempt to intimidate and coerce
 - (d) Conducting numerous unlawful property visits without proper notice or regard for the right to quiet enjoyment
 - (e) Engaging in a pattern of abusive, threatening and intimidating communication designed to cause alarm and distress
 - (f) Repeated failure to provide statutorily required information under the s.20A of the Housing Act

1988, and ss 3,48 of the Landlord and Tenant Act 1985

4. The respondent denies the allegations and submits that:

- (i) The application is time-barred and should be summarily dismissed, the application not having been lodged within 12 months of the alleged offences. In particular because the offences are said to reference events from 2020 to July 2021.
- (ii) That the applicant has failed to adhere to the Tribunal's directions made on 27 June 2024 which ordered that the bundle be filed and served by 23:59 on 18/07/2024. The respondent asserts that the applicant lodged the bundle with the Tribunal 24 hours late and served it on the respondent 36 hours late. On that basis the respondent asserts that this was a substantial delay which prejudiced the respondent's ability to prepare an adequate defence and that the Tribunal should use its power to strike out the application
- (iii) The application fails to establish a prima facie case and that none of the claims satisfy the requirement for the criminal burden of proof
- (iv) The applicant's argument pertaining to alleged violations of section 3,48, as well as Notices 8 and 21 have been conclusively adjudicated in relevant courts with decisions rendered in favour of the respondent. Moreover, the respondent submits that a High Court appeal has characterised this matter as a "misuse of the system"

5. This application follows a long history of litigation between the parties. The essence of the history is that the Dr Mohammed Akmal (the respondent landlord in this case) issued proceedings against Mr Hakan Tuyunuklu (the applicant/tenant in this case) in the County Court at Central London for rent arrears (claim number 293MC217) for the period 7 October 2021 to 7 May 2022. On 23 August 2022 DDJ Williams ordered the applicant/tenant to pay £10,600 in respect of those rent arrears and ordered that he pay costs of £801. On 16 June 2023 HHJ Baucher struck out Hakan Tuyunuklu's appeal against DDJ Williams' order.

6. On 12 December 2023, upon Hakan Tuyunuklu's application for a without notice injunction in the High Court (case number KB-2023-004648), Mr Justice Lavender ordered that the application is dismissed and that the application is totally without merit and is an abuse of the process of the Court [R15].

The tenancy

7. The applicant entered into an Assured Shorthold Tenancy agreement (“AST”) with Imagine One Tribe Ltd on 7 June 2020 for 6 months, thereafter the tenancy became an assured periodic tenancy. The respondent owns the property and at the time of the start of the tenancy was the superior landlord. On or around 29 September 2021 the respondent became the direct landlord.

8. The terms of the AST required the applicant to pay rent of £1,350 pcm from 7 June 2020 to 6 June 2023. That contract requires payment of an additional £200 pcm for utilities. Those utilities being Gas, electricity, Water and Council Tax.

9. On 3 November 2023 the First-tier Property Tribunal determined that the monthly rent for the property from 7 June 2023 be £1,732.50 pcm (excluding water rates and council tax) (case ref LON/00AG/MNR/2023/0214). Permission to appeal was sought by the applicant but refused on 5 March 2024.

Directions

10. The Tribunal issued Directions on 27 June 2024.

THE HEARING

11. The Tribunal did not inspect the property as it considered the documentation and information before it in the trial bundles provided sufficient information.

12. This was a face to face hearing conducted at 10 Alfred Place, WC1E 7LR. The applicant provided a bundle of [132] electronic pages as well as a skeleton argument. The respondent provided a bundle of documents of [16] electronic pages. Any reference in this decision to documents will be referenced by A (for the applicant’s bundle) followed by a page number; and R (for the respondent’s bundle) followed by a page number.

13. The applicant attended the hearing and represented himself. The respondent did not attend but was represented by his wife Dr Serap Akmal.

Preliminary issues

14. The first preliminary issue was for the Tribunal to establish the period and amount of claim. The Tribunal referred the applicant to the law and he requirement for him to prove the incidents of harassment having occurred within 12 months of the date of his claim. The period that the Tribunal were confined to consider being 10 April 2023 to 9 April 2024.

15. The requirement to provide a period and amount of claim had been brought to the attention of the applicant in the Directions: Under the heading of ‘Background’ it states *“He has not stated the amount or the period of time. These matters should be addressed in the applicants witness statement”*

16. The applicant was unable at the start of the hearing to clarify the period and amount of the claim. The clarification of the period of claim was provided at the end of the hearing when he asked the Tribunal to consider the period from 1 January 2024 to the date of the hearing. An amount was not specified by him, but the rent paid by him for that period was £1,735 pcm.

17. Given that the applicant is a litigant in person, he was given some considerable leeway in expanding his case during the course of the hearing, to try to enable the Tribunal to fully understand his case.

18. The second preliminary issue was the applicant’s submission that the respondent be debarred from taking part in the proceedings because of their failure to comply with the Directions, in particular the late service of their bundle which was served on 28 September 2024. The Directions required the respondent to file and serve this bundle by 16 August 2024.

19. This objection had previously been raised by the applicant in writing and in a written response from the Tribunal dated 7 October 2024 the parties were advised that :

“Accordingly, in deciding whether or not to apply sanctions, one of the relevant considerations is whether or not the parties are able to participate fully in proceedings despite any breach of the Directions.

Judge Hawkes is not satisfied, at present, that sanctions should be applied and notes that there appears to be sufficient time for both parties to consider each others documents and to prepare for the final hearing which would be a determination on the merits of the application.

However, either party may renew their procedural application(s) at the start of the final hearing (and the parties should note that all applications should be made on the correct Tribunal form)”

20. No additional application form was before the Tribunal, however, when the applicant raised this issue, the Tribunal considered his argument. When asked in what way he had been prejudiced by the late service of the respondent’s 16 page bundle some 2 months prior to the hearing, his only argument was that it was contrary to the law and that because the respondent had not complied with, they should not be permitted to take part in proceedings.

21. The Tribunal considered his application but determined that the applicant had not been prejudiced by the late service of a 16 page bundle

which contained only a short statement from the respondent, the remainder of the bundle containing court orders, of which the applicant is fully aware, and correspondence from the applicant himself. While there was a breach, given the very limited amount of documentation relied upon in the respondent's bundle, the Tribunal determined that the applicant's application to debar the respondent be dismissed.

The evidence

22. Given the basis for the application is harassment of the applicant tenant, the Tribunal asked the applicant to provide evidence about the incidents during the 12 months prior to the application made on 9 April 2024. The following are the incidents that the applicant sought to rely upon:

23. Allegation of repeated claims for possession issued at the beginning of 2024. One claim was made under Grounds 8,10,11 of the 1988 Act and one claim under s.21 of the 1988 Act. The applicant argues that because he had sought permission to appeal from the Upper Tribunal the respondent did not have the right to issue the claim for possession under Ground 8,10,11. He argues that the only rent withheld by him was the difference between the original rent of £,350 and £1,732.50 (the increased monthly rent determined by the FTT on 03/11/2024 with an effective date of the new rent from 07/06/2023). A copy of the outcome to his application was provided during the course of the hearing.

24. It is of note that the FTT dismissed the application for permission on grounds that there was no realistic prospect of success and commented that *"..The Tribunal has already made its decision, and provided the reasons for that decision to the parties. Nevertheless, the tenant, through repeated correspondence, has sought to influence the Tribunal's decision further by making new submissions, in the hopes the Tribunal might "reconsider" its decision."* [paragraph 9 of the refusal for permission to appeal]

25. Paragraph 14: *"The tenant now avers that they had, in fact, sought permission to appeal by sending the emails outline above, and particularly the one dated 19 December 2023. Whilst no explicit permission to appeal appears to have been sought, having considered the matter the Tribunal can understand how the tenant's email of 19 December 2023 might be taken as a request for that permission"*

26. In relation to the s.21 possession claim, the applicant states that this was made without basis as there were no valid gas safety certificates, NICEIC or How to rent booklet. He confirmed that the first hearing of this claim in the County Court had been adjourned to 20/11/2024 for the respondent to produce these documents. He further submits that the gas safety certificates included in the respondent's bundle are invalid for 2 reasons: the first being that there was a delay in obtaining the certificate in 2022, and secondly that they are all invalid because the landlord's details has been left blank on all the forms. The certificate in 2022 had been due on 18/07/2022 and completed only on 19/11/2022.

27. The applicant submits that the lack of correct certification is harassment because it is a failure to comply with Regulations and that it put him in a dangerous position. He confirmed that on 19/07/2021 a new gas boiler was installed, after several previous appointments at the property. He also confirmed that he had been successful in his claim for a breach of contract claim against the previous landlords, Imagine One Tribe Ltd and that claim included damages for the lack of heating. No evidence was provided in relation to failures of any of the gas or electrical appliances after the installation of a new boiler by the respondent on 19/07/2021.

28. The respondent states that all the gas safety certificates are valid, that there was a delay in 2022 due to the difficulty in getting trades people to attend appointments further to the Covid pandemic, and that they had not carried out a NICEIC for which she apologises as she was not aware of this requirement.

29. Allegation of an incident on 24 or 25 May 2021 when the respondent's wife, came to the property and the applicant states that she harassed him and threatened to evict him in 7 days. He told the Tribunal that when she called the flat from the building entrance, he let her in, and when she arrived at the flat door he opened the door to talk to her. He confirms at no time did the respondent's wife attempt to gain entry into the flat. He relies as evidence the letters from the Local Authority to him in which they confirm his telephone call to them, reporting that he had been harassed, and the Local Authority's letter to the Metropolitan Police, reporting the applicant's report to them of harassment. There is no further documentary evidence.

30. Dr Sarap Akmal, the respondent's wife and the representative at the hearing, told the Tribunal that she had attended the property to try to find out who was living there. Since Imagine One Tribe Ltd had ceased to be the landlord the respondent had no idea who was there. She denied making threats to evict and when threatened to call the police, she left without further discussion.

31. Allegation that respondent gave the applicant's details to the Utility Companies without his consent. The applicant's position is that by the terms of the tenancy agreement he was obliged to pay £200 pcm in addition to the rent for utilities: gas, electricity, water and Council Tax. The applicant confirmed that from 2021 he had registered himself as the Council Tax payer and had reduced the amount of the additional sum to £100 pcm. Then in December 2023 he started to pay gas, electricity and water in his own name. However, in the meantime, the respondent, he says, gave the utility companies his details and the wrong date for starting the tenancy and he was suddenly in receipt of bills of £2000 for utilities which it took him some time to sort out.

32. The respondent's position is that the applicant didn't pay for the utilities and that he had agreed by email that he would pay the bills direct to the companies.

33. Allegation that the respondent threatened to report the applicant to the Home Office in an email dated 22/02/2023. The applicant alleges that the respondent discriminated against him.

34. In oral evidence it transpired that the respondent asked the applicant to provide evidence that he had the right to rent, which they are under a duty to do as landlords. When the applicant failed to do more than send a copy of his passport, they asked him to provide his evidence by obtaining a code in the proper process under Gov.UK. That would allow him to confirm his right to rent without having to send all his documents to the landlord. The applicant confirmed that he raised the requisite code on 22/02/2023. He submits that all of this interfered with his quiet enjoyment of the property.

35. The respondent submits that there was no discrimination against the applicant, that they had to comply with the requirement to check his right to rent, and that he did obtain a code to confirm his position.

36. Allegation of harassment by email from the respondent. The applicant submits that there were continual threats and abuse by the respondent but no documentary evidence was produced.

37. The respondent denies this allegation, and states that it is in fact the applicant who has been sending inappropriate, aggressive and threatening communications to the respondent. The tribunal were referred to various written communications in the respondent's bundle.

38. There are threats and foul language in emails which the applicant states was aimed at his solicitor, although the respondent's wife is named in that email; What'sApp messages to the respondent and his wife; and in an email dated 08/12/2023 the applicant wrote: *"I am not gonna go do legal analysis of what kind of violate the UK law and jurisdiction during the process. I am offering you both exit if claim wont be withdrew latest Monday 13.00 pm I will make witness statement to the high court will ask them to intervene the matter. This is friendly advice you both find yourself in prison very shortly I strongly suggest you get legal advice and inform me with your next step"* (sic) [R/8].

39. The applicant in oral evidence admitted that his language had been unprofessional but then attempted to justify why he behaved in that way.

FINDINGS

40. The Tribunal are unable to find beyond a reasonable doubt that the respondent landlord is guilty of an offence under s.1(2),(3) or (3A) of The Protection of Eviction Act 1977 during the relevant period (08/04/2023-09/04/2024), or at all.

41. The incident on 25/05/2021 when the respondent's wife visited the property was outside the relevant period, but even if it had have been during the relevant period, was not harassment.

42. In relation to the allegation that the respondent had made multiple attempts to evict him from the property without a valid reason since 01/01/2024 are found to be unfounded. The Tribunal found that the respondent did have a valid reason to issue proceedings against him. The application made under Grounds 8,10,11 Housing Act 1988 for rent arrears was validly made, but rent arrears were cleared just before the hearing of that claim. It is of note that the Judge in that matter adjourned the matter generally with liberty to restore within one year, rather than dismissing the claim. The Tribunal do not accept that the Ground 8 proceedings were wrongly issued in the County Court before the outcome of the permission to appeal the FTT determination of a market rent (LON/00AG/MNR/2023/0214). Had there been a wrongly issued claim for possession, the District Judge in the County Court would have dismissed the action, rather than adjourn it for 12 months

43. In relation to the s.21 claim, no justification is required for that claim it being a 'no fault eviction'. The first hearing of that claim having been adjourned to 20/11/2024 for the respondent to file and serve all the gas safety certificates.

44. Those were the only two possession claims against the applicant since the one in 2021, which was a valid claim resulting in a money judgment having been made against the applicant in the sum of £10,600. These validly made claims for possession are not harassment.

45. In relation to the allegations that there are no gas safety certificates in place and no NICEIC certificate, neither of these constitute harassment. In any event the Gas safety certificates were provided by the respondent. The Tribunal noted the lack of a NICEIC certificate and considered that to be a breach of the law which does not satisfy the test for harassment.

46. In relation to the allegation that the respondent threatened to report the applicant to the Home Office, the Tribunal found this allegation to be unfounded. The respondent landlord had a duty to establish that the applicant had a right to rent, and given his evasiveness in providing details to the respondent, they asked him correctly to obtain a code on the Government Website to prove his eligibility to rent. This was not harassment.

47. In relation to the allegation under the Equality Act. That is not a matter for the Residential Property Tribunal as a stand-alone claim, and the Tribunal did not consider it added to anything to support the harassment claims.

48. In relation to the allegation that the respondent landlord had given details of the applicant to the Utility Companies, contrary to the terms of the

tenancy agreement, the Tribunal found that this did not constitute harassment.

49. In relation to the allegation that the respondent had been abusive to the applicant, the Tribunal finds the opposite. The emails, and WhatsApp messages from the applicant to the respondent demonstrated abusive and threatening language.

50. For all the above reasons, the application dismissed.

Name: Judge Brandler **Date:** 2 December 2024

ANNEX - RIGHTS OF APPEAL

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.

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. The application should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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.

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.

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.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix of relevant legislation

Housing and Planning Act 2016

Chapter 4 RENT REPAYMENT ORDERS

Section 40 Introduction and key definitions

(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, or
- (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.

(2) 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.

Act	section	general description of offence
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

(4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

Section 41 Application for rent repayment order

(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.
- (3) A local housing authority may apply for a rent repayment order only if—
 - (a) the offence relates to housing in the authority's area, and
 - (b) the authority has complied with section 42.
- (4) In deciding whether to apply for a rent repayment order a local housing authority must have regard to any guidance given by the Secretary of State.

Section 43 Making of rent repayment order

- (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 section 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);
 - (b) section 45 (where the application is made by a local housing authority);
 - (c) section 46 (in certain cases where the landlord has been convicted etc).

Section 44 Amount of order: tenants

- (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.

<i>If the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to rent paid by the tenant in respect of</i>
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.