



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

Case reference : **LON/00BG/HMB/2023/0013**

Property : **26 Meridian Place E14 9FE**

Applicants : **Marini Walker and Patrick Allenstein**

Representative : **N/A**

Respondent : **Wei Fang Liu**

Representative : **Charles Russell Speechlys LLP**

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 H Carr
Mr M. Cairns**

**Date and venue of
hearing** : **10th February 2025**

Date of decision : **10th March 2025**

DECISION

Decisions of the tribunal

- (1) The tribunal determines not to make a Rent Repayment Order.
- (2) The tribunal makes the determinations as set out under the various headings in this decision.

The application

1. The Applicants seek a determination pursuant to section 41 of the Housing and Planning Act 2016 (the Act) for a rent repayment order (RRO). The Applicants allege that the Respondent landlord has committed an offence under s.1(3) or s.1(3A) of the Protection from Eviction Act 1977.
2. The application is dated 23rd October 2023 and was received by the Tribunal on that date. Directions were issued on 14th February 2024 and amended on 4th October 2024.
3. The period for which the RRO is sought is from 6th December 2021– 5th November 2022.
4. The Applicants are seeking to recover the sum of £15,600 for rent paid during this period.

The hearing

5. The Applicants attended the hearing. Ms Walker represented them and gave evidence.
6. The Respondent attended and was represented by Mr A Rajah of Counsel. Also in attendance was Mrs Xiull Zhang, a mandarin interpreter who interpreted for the Respondent.

The background

7. The property is a three bedroomed apartment on the 5th floor of a block of flats.

8. The Respondent is the owner of the property as shown by the land registry title deed. She has owned the leasehold of the property since 2012. She lived in the property until 2016 since when she has rented out rooms in the property from time to time.
9. The Applicants have occupied Room 1 of the property since 15th June 2016. The most recent tenancy agreement for Room 1 is dated 15th June 2018 and provides for a term of 24 months from 15th June 2018 – 14th June 2020 at a rent of £1,300 pcm.
10. Choices Estate Agents Ltd are named as the landlord on the original agreement.
11. On 24th April 2023 the Respondent served a s.48 notice which provided her name and address as landlord.
12. Rooms 2 and 3 are not included in the room agreement with the Applicants. Both rooms are currently vacant but have been let as follows
 - (i) Room 2 was let to a Ms Pearson for a fixed term of 12 months from 2 July 2018 to 1 July 2019. Ms Pearson vacated the room on 31st January 2020
 - (ii) Room 3 was let to a Mr Miah for a fixed term of six months commencing on 18th November 2019 and ending 17th May 2020. Mr Miah vacated the property on 8th August 2021.

The Law

13. The relevant sections of the Protection from Eviction Act 1977 provide as follows:

1(3) If any person with intent to cause the residential occupier of any premises-

*(a) to give up the occupation of the premises or any part thereof;
or*

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—

- (a) *he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or*
- (b) *he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,*

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

(3B) A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.

The issues

14. The issues that the tribunal must determine are;

- (i) Is the tribunal satisfied beyond reasonable doubt that the landlord has committed the alleged offence?
- (ii) Do the Respondents have a 'reasonable excuse' defence?
- (iii) What amount of RRO, if any, should the tribunal order?
 - (a) What is the maximum amount that can be ordered under s.44(3) of the Act?
 - (b) What account must be taken of
 - (1) The conduct of the landlord
 - (2) The financial circumstances of the landlord:
 - (3) The conduct of the tenant?
- (iv) Should the tribunal refund the Applicant's application and hearing fees?

The determination

Is the tribunal satisfied beyond reasonable doubt that the landlord has committed the alleged offence?

The argument of the Applicants

15. The Applicants say that the harassment they are complaining about commenced following the service of an invalid s.21 notice in March 2020 and intensified following the issue of another invalid s.21 Notice on 15th November 2021. The Applicants says that the most intense harassment occurred between September 2022 and November 2022 after the applicants returned the defence form.

16. The chronology of events according to the applicants is as follows:

15 th June 2016	Commencement of tenancy
February 2020	Room 2 vacated
5 th March 2020	s.21 notice issued by Choices, the managing agent for the property, but no proceedings issued and it expires
23 rd and 24 th July 2020	Correspondence about landlord's family moving in
24 th August 2020	Correspondence between Choices the agents, and landlord about vacating the property
23 rd October 2020	Landlord terminates her agreement with Choices and takes over management
March 2021	Visit from neighbours who are relatives of landlord about TV licence
11 th March 2021	Conversation with relatives about moving out without s.21 proceedings
May 2021	Visit from Dome properties who have taken over property management
August 2021	Room 3 vacated
15 th November 2021	Section 21 notice served which the tenants argue is invalid. Correspondence about this is dated 25 th January 2022.
1 st April 2022	Landlord requested an inspection via Trowers & Hamlin
4 th April 2022	Tenants inquired for further information about proposed inspection
29 th June 2022	Trowers said they were no longer acting but that it was Christine Lee solicitors
June 2022	Longmans solicitors take over
July 2022	Letter which the tenants say suggests surveillance of tenants
July 2022	Accusations of using the other rooms
18 th August 2022	Tenants returned the defence form for accelerated possession proceedings

6 th September 2022	Letter requesting access which the tenants say confirms surveillance of tenants and it includes accusations of wrongdoing
17 th October 2022	Letter which the tenants argue confirms surveillance of tenants and accuses them of using rooms 2 and 3. Legal proceedings threatened
24/25 October 2022	Landlord sending someone to the building without prior notice requesting landlord's mail
17 th November 2022	Landlord's solicitors threatened an injunction
21 st November 2022	False allegations
7 th December 2022	Possession claim struck out
24 th April 2023	s.48 notice change of name and address of landlord
23 rd October 2023	Application made to tribunal
14 th February 2024	Directions issued
4 th October 2024	Directions amended
4 th December 2024	Encounter with the concierge who said they should pack up and leave as they were not wanted in the building
10 th February 2025	Hearing

17. The Applicants are not arguing that the service of invalid s.21 notices constitute harassment but that the behaviour of the respondent when the applicants failed to leave after the service of those notices does constitute harassment.
18. The Applicants say that the harassment was used as a retaliation for exercising their rights in demanding that the landlord provide legally valid eviction notices, for defending possession proceedings and for pursuing a remedy for unlicensed HMO.
19. When asked by the Tribunal which act it was that constituted the offence. the Applicants said that it was the letter of 18th November 2022 from Polja Atkins of Longmores Solicitors. This letter read as follows:

Dear Sir and Madam

Despite numerous requests over the past few months, you continue to refuse access to the property in clear breach of the terms of your tenancy agreement, even on dates proposed by you. Our client has tried to accommodate you by even offering to come on dates suggested by you.

Our client will now take the necessary steps without a further recourse to you. The contents of this email will be brought to the attention of the court.

20. The Applicants said that this letter had to be seen in the context of constant requests for access to the property and baseless threats of legal action. They were particularly concerned by allegations that they were trespassing into Rooms 2 and 3 of the property.
21. The Applicants complain of ambiguity about the landlord and different people contacting them, claiming that they were acting for the landlord or the landlord's family. They say that the different rooms had different landlord details from the start. There was poor check out procedures for the tenants who left which led to confusion about the keys.
22. They complain that despite Covid-19 restrictions the landlord sent individuals to the tenants' home in July 2020 and March 2021 to ask the tenants to agree to a meeting about possession.
23. There were suggestions made that the applicants vacate without proper documentation such as a s.21 notice which the applicants strenuously resisted.
24. The Applicants say that the landlord was aware of Ms Walker's chronic illness and yet the visits from people they had never previously met or been warned about showed a disregard for Ms Walker's vulnerability.
25. The Applicants were concerned about allegations made during proceedings about the property being unlicensed that they were using the other rooms in the flat and that the respondent had video evidence in support of this. This concern was heightened when the Respondent's legal representatives indicated that by simply stepping into the two rooms they were committing acts of trespass despite the Applicants making it clear that they only accessed the rooms to clean and tidy them, and to air them as the flat is susceptible to mould and damp.
26. The Applicants considered themselves bullied when the Respondent's solicitors did not accept their explanations of the law and the facts of the situation.

The argument of the Respondent

27. The Respondent says that the substance of the Applicants' claim is their objection to the Respondent's attempt through her legal representatives to arrange access to the property for the purposes of inspection and repair and to pursue the legal process of obtaining lawful possession following the service of a notice under s.21 of the Housing Act 1988

28. The Respondent says that the relevant period for the commission of the offence must be understood as 24th October 2022 to 23 October 2023.
29. Moreover as the RRO claimed is for the period from December 2021 to November 2022, this means that the Applicants are alleging that the offence was committed between 24th October 2022 and 30th November 2022.
30. The Respondent says that the acts complained of by the Applicants span a period from March 2020 to December 2024 most of which is outside the relevant period and therefore not relevant to these proceedings save as context. For the avoidance of doubt, however, Mrs Liu denies having harassed the Applicants at any time.
31. Mrs Liu's position in respect of the events prior to 24 October 2022 is explained at paragraphs 19-20 of her statement of case. There she explains that she has been assisted in dealing with the property by her family members, primarily because she cannot speak or write in English and has at times been abroad. She has also engaged property agents and solicitors from time to time.
32. Due to language barriers the Respondent has never contacted either of the Applicants directly although a few letters have been drafted by her agent in her name. Further neither the Respondent nor any of her family members has ever visited the property unscheduled and the Respondent has not been back in the property at all since 2015. She agrees it appears that a family member got in touch with the Applicants stating that the family wished to move back into the property and asking if a date could be agreed for the Applicants to vacate as the fixed term had expired. The Respondent says there were times when the Respondent considered allowing family members to occupy other rooms in the Property. However she says that no family members actually moved in and this was never used as a threat. The Respondent simply wanted to make use of the untenanted rooms.
33. In response to Ms Walker saying that they required a formal s.21 notice to terminate the tenancy, rather than a negotiated termination, a family member, Ixiaowen Li responded saying 'No problem serving Section 21. But thought we agree a time beforehand, rather than forcing you out which was not our intention'. The Respondent notes that in correspondence Ms Walker agreed that receiving a section 21 notice is not acrimonious.
34. The Respondent's former solicitors served the s.21 notice on 16th November 2021 in good faith as a step towards obtaining lawful possession. Although Ms Walker denied the validity of the notice, the Respondent brought possession proceedings based on the notice as a good faith attempt to obtain lawful possession.

35. The Respondent says that the fact that the possession proceedings were ultimately dismissed on 24th November 2022 and the notice deemed to be invalid does not turn these steps into criminal harassment.
36. The only occupants of the property since August 2021 have been the Applicants.
37. The Respondent agrees that between 1st April 2022 and 22 November 2022 the Respondent's former solicitors made numerous requests for the Applicants to allow the Respondent access to inspect the property. The Applicants failed to identify a day when access would be convenient so the Respondent's representatives specifically requested that access be provided on specific days. The Applicants refused to provide access.
38. In response to allegations of surveillance the Respondent said that in or around July 2022 she was visiting the managing agent and noticed that the lights in Rooms 2 and 3 of the property were on, despite those rooms being untenanted and not demised to the Applicants.
39. The Respondent was concerned that the rooms were being sublet or used without permission. She therefore took pictures of the lit windows to show her solicitors. Neither of the Applicants is visible in the picture and the Applicants were given assurances about this on 18th October 2022.
40. The actions of the Respondent's then solicitors demanding that access to Rooms 2 and 3 stop immediately and later notifying the Applicants that it was a trespass to continue using the rooms without permission is, the Respondent says, a legitimate response to her concern about illegal use of the rooms by the Applicants.
41. The Respondent notes that the Applicants claim to have been pressured to sign away legal rights on 18th October 2022. The Respondent says that this is probably a reference to the letter of claim sent by the Respondent's former solicitors dated 17th October 2022. The Respondent denies this was harassment and notes that the Applicants were encouraged to take independent legal advice.
42. In response to the Applicants' allegations relating to the period between October 2022 and October 2023, the Respondent makes the following comments.
43. First the incident on 24/25 October 2022 which concerns the Applicants being requested by the concierge to bring down any mail addressed to the landlord's family. The applicants brought the mail down to the concierge and handed it to a Chinese woman who collected it for the Respondent. The Respondent does not understand the Applicants' complaint.

44. In response to the Applicants' complaints about the exchange of correspondence with the Respondent's former solicitors between 16th and 22nd November 2022, the Respondent says this was a continuation of earlier correspondence which took place between 1st April 2022 and November 2022. This related to the Respondent's former solicitors seeking to agree a date and time when the Respondent could access the Property pursuant to the tenancy agreement. The Respondent says the purpose of the visit was to inspect the condition of the Property, including Rooms 2 and 3 and to secure Rooms 2 and 3 as they were untenanted and not let to the Applicants.
45. The Respondent says that these attempts do not constitute harassment.
46. In relation to the final event complained of by the Applicants, the Respondent says she has no knowledge of the events on 4th December 2024. She notes the date anyway falls outside the relevant period. The Respondent does not employ the concierge nor is he her agent and she is not responsible and not criminally liable for anything said or done by him.

The decision of the Tribunal

47. The Tribunal determines that the Respondent has not committed the offence.

The reasons for the decision of the tribunal

48. It is clear to the tribunal that the relationship between the parties had broken down. The Applicants say that they felt bullied and 'gaslit' by the Respondent. The Respondent wanted the Applicants to leave the property. She admitted that in the tribunal. She wants to live in the property which she enjoyed living in before and which has the benefit of Mandarin speaking neighbours.
49. However, this does not mean that there was any offence committed under the Protection from Eviction Act 1977. It appears to the tribunal that any action that the Respondent took was because of advice from reputable legal practitioners. The fact that two invalid s.21 notices were served, does not, as the Applicants agree, constitute an offence under the Act.
50. The main concerns revolve around requests, several of which were accompanied by threats of legal action, for access to the property. The Respondent wanted, and was entitled to have access to the property, in part to collect belongings, in part for inspection purposes.

51. The Respondent does not appear, until recently, to have received good legal advice about access to the property. The Respondent had the right to access the shared areas and Rooms 2 and 3 without the Applicants' permission. If the problem was, as it seems to have been, that the Respondent did not have the front door keys, then the Applicants should have been informed that the locks would have to be changed and that they would be provided with new keys. It appears that this course of action has now been taken by the Respondent's current legal representatives.
52. Be that as it may, the immediate problem was that the Applicants refused the Respondent access to the property. The Applicants say that this was for good reasons, their health, their convenience, their uncertainty about who it was who was coming to inspect. Nonetheless they provided no dates upon which it could be agreed that access could take place. This meant that the lawyers representing the Respondent escalated matters, threatening to take injunctions proceedings and making allegations about trespass. This in the opinion of the tribunal does not constitute an offence under the Protection from Eviction Act 1977. What it constitutes is an effort to gain access to the property which was a right of the Respondent.
53. In reaching its decision the tribunal generally preferred the evidence/demeanour of the Respondent to that of the Applicants where events are disputed.
54. The tribunal determines that the Applicants have failed to provide evidence beyond reasonable doubt of any intention on the part of the Respondent that her actions in requesting access to the property would cause the Applicants to give up the occupation of the premises or any part thereof or to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof. Such evidence is required for there to be an offence under s.1(3).
55. Nor does the tribunal consider that an offence has been committed under 1(3A) of the Act. The tribunal considers that the Applicants have failed to provide evidence beyond reasonable doubt that the Respondent had reasonable cause to believe that her conduct in making requests for access was likely to cause the Applicants to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.
56. Moreover, even if the tribunal is wrong about the offence under s1 (3A) of the Act, the tribunal is clear that the Respondent had reasonable grounds for doing the acts in question which constitutes a defence under s.1(3B). The actions that the Respondent took, with the benefit of legal advice, were to enable the Respondent to gain access to the property.

57. The difficulties faced by the Applicants are compounded by the need for the harassing act or acts to have taken place between 24th October 2022 and 30th November 2022 as argued by the Respondent and not disputed by the Applicants.
58. Here the Applicants say that it is the letter dated 18th November 2022 that is the act of harassment on which they rely. However they say that the letter has to be understood in its context. The tribunal determines that the letter does not constitute a harassing act in the terms of the Protection from Eviction Act 1977. The context, as the tribunal sees the facts of this case, is of persistent refusal by the Applicants to allow the Respondent to have access to the property. The actions of the Respondent's solicitors in the light of the persistent refusal was lawful and reasonable.
59. In the light of the decision by the tribunal that no offence has been committed under the Protection from Eviction Act 1977, there is no need for it to determine the other issues set out at the beginning of this decision.

Name: Judge H Carr

Date: 10th March 2025

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 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).