



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

**Case reference** : LON/00AJ/HMF/2024/0172

**Property** : 8 St Dunstons Gardens, London W3  
6QG

**Applicants** : Javanate Thompson, Rami Haynes-  
Johnson, Megan Wolfe, Rosa McKechie

**Representative** : In person

**Respondent** : Mr Vahid Karimi-Nick

**Representative** : In person

**Type of application** : Application for a rent repayment order  
by tenant Sections 40, 41, 43, & 44 of the  
Housing and Planning Act 2016

**Tribunal members** : Judge H Carr  
Ms S. Coughlin MCIEH

**Date and venue of  
hearing** : 22<sup>nd</sup> April 2025

**Date of decision** : 6<sup>th</sup> May 2025

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**DECISION**

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### **Decisions of the tribunal**

- (1) The tribunal determines to make Rent Repayment Orders as follows:
  - a. Javante Thompson - £6265
  - b. Rami Haynes-Johnson - £5853.02
  - c. Megan Wolfe - £5250.12
  - d. Rosa McKeachie - £5808.58
- (2) The Rent Repayment Order must be paid within 28 days of the issue of this decision.
- (3) The tribunal determines that the respondent reimburse the applicants for their application and hearing fees, totalling £330.
- (4) The tribunal makes the determinations as set out under the various headings in this decision.

### **The application**

1. The applicant tenants, Javante Thompson, Rami Haynes-Johnson, Megan Wolfe and Rosa McKeachie seek a determination pursuant to section 41 of the Housing and Planning Act 2016 (the Act) for a rent repayment order (RRO) in relation to 8 St Dunstons Gardens, London W3 6QG.
2. The applicants allege that the respondent landlord has committed the offence of control or management of an unlicensed HMO under s.72(1) of the Housing Act 2004.
3. The respondent is Mr Vahid Karimi-Nick the registered owner of the property and who is named on the tenancy agreements as the landlord
4. The applicants are seeking to recover £35,756.17. This amount is made up of claims from each applicant as follows:

- (i) Javante Thompson - £9,665.28
- (ii) Rami Haynes-Johnson - £9029.92
- (iii) Megan Wolfe - £8099.68
- (iv) Rosa McKechie – 8961.29

5. The application was made and received on 6<sup>th</sup> June 2024. Directions were issued in this matter on 11<sup>th</sup> October 2024 and amended on 19<sup>th</sup> February 2025.

### **The hearing**

6. Two of the applicants, Javante Thompson and Rami Haynes-Johnson appeared at the hearing and represented themselves.
7. The respondent appeared at the hearing together with Mr Kam Bayk of Curtis & Parker, the managing agents of the property.

### **The property**

8. The property is a semi-detached house with 4 bedrooms, one of which has an ensuite bathroom, a shared kitchen and a bathroom. It also has a front and back garden.
9. The tenancy commenced on 5<sup>th</sup> September 2022 and terminated on 4<sup>th</sup> September 2023. The tenants remained in the property an additional week as compensation for the poor conditions at the commencement of the tenancy, so the tenants vacated the property on 11<sup>th</sup> September 2023.
10. The landlord applied for a licence on 24<sup>th</sup> August 2023.

### **The issues**

11. 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) Does the respondent 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 respondent has committed the alleged offence?**

### **The Applicants' evidence**

- 12. The property is situated within an additional licensing area as designated by the London Borough of Ealing. The additional licensing scheme came into force on 1st April 2022 and will cease to have effect on 31st March 2027. The scheme requires all HMOs with 3 or more occupants living in two or more households to be licensed.
- 13. The additional licensing scheme was implemented borough wide.
- 14. The Applicants provided a copy of the Notice of Designation of Areas for Additional Licensing for Houses and Flats in Multiple Occupation at page 92 of the bundle and a map of the areas covered by the designation at page 94 of the bundle.
- 15. The property meets all the criteria to be licensed under the designation and does not qualify for any licensing exemptions.
- 16. The applicants say that during the period of their claim the property was occupied by at least three persons living in two or more separate households and occupying the property as their main residence. Their occupation of the property constituted the only use of the accommodation.

17. The applicants produced an AST agreement which has the four applicants listed as tenants. The AST was for a fixed term of 12 months commencing 5<sup>th</sup> September 2022 and expiring on 4<sup>th</sup> September 2023. The monthly rent was £3033.00 per calendar month.
18. The applicants gave evidence that they were unrelated to any of the other occupiers and were not in a relationship with any of the other occupiers.
19. The applicants provided copies of email correspondence with the LB of Ealing at pages 50 and 51 of the bundle which confirmed that the property was not licensed as an HMO until the respondent applied for an additional HMO licence on 24<sup>th</sup> August 2023.
20. The application to the tribunal was made on 6th June 2024.

### **The Respondent's evidence**

21. The respondent argues that no offence has been committed as he applied for a licence on 24<sup>th</sup> August 2023, before the tenancy ended on 4<sup>th</sup> September 2023.

### **The decision of the tribunal**

22. The tribunal determines that the respondent has committed the alleged offence.

### **The reasons for the decision of the tribunal**

23. The tribunal relies on the evidence from the applicants and the information provided by the local authority.
24. The respondent committed the offence from the commencement of the tenancy until the day he made the application. His argument that he has committed no offence is not accurate. Applying for the licence does not retrospectively cure the offence.

### **Does the Respondent have a 'reasonable excuse' defence?**

25. The respondent argues that he has a reasonable excuse defence because as soon as he became aware of the licensing requirement, he immediately took the necessary steps to submit the application for an HMO licence to Ealing Council on 24<sup>th</sup> August 2023.

26. He told the tribunal that he had been suffering from cancer at the relevant time and was undergoing treatment. He asked that this be considered as an explanation as to why he took his eyes off the ball. He told the tribunal that he has always complied with legal requirements.
27. The applicants argue that the landlord is a professional landlord who has previously let the property to a group of house sharers.
28. They also referred the tribunal to an email from the letting agent saying the landlord had an HMO licence. This email is at p102 of the applicants' bundle. The email is dated 29<sup>th</sup> July 2022 and was sent by the agents to reassure the applicants that the landlord was prepared to take house sharers.
29. The landlord denies that he is a professional landlord. He told the tribunal that the property was his only property and that he currently lives in a privately rented one bedroom flat.

#### **The decision of the tribunal**

30. The tribunal determines that the respondent does not have the benefit of a reasonable excuse defence

#### **The reasons for the determination of the tribunal**

31. The landlord provided no medical evidence and nor was his illness and treatment referred to in his witness statement. He did not provide dates for the illness and the treatment. The tribunal therefore did not take that evidence into account when considering the availability of the reasonable excuse defence.
32. The tribunal does not accept that ignorance of the law provides a reasonable excuse defence to a failure to licence.
33. The tribunal could not understand why the agents sent an email saying that the property had a licence to the applicants. Mr Bayk was unable to explain why that email had been sent.

#### **Should the tribunal make an award of a RRO? If so, for what amount?**

34. The applicants asked the tribunal to exercise its discretion and make an RRO.

35. The landlord argues that he has acted in good faith and promptly rectified the failure to licence. He therefore asks that the tribunal exercises its discretion and not make a RRO.

### **The decision of the tribunal**

36. The tribunal determines to exercise its discretion to make a rent repayment order.

### **The reasons for the decision of the tribunal**

37. The tribunal considered the evidence and determined that it was appropriate for it to exercise its discretion and make a rent repayment order because there had been a clear breach of the law.

### **The maximum amount of the RROs which can be ordered**

38. Although the applicants' claims included 24<sup>th</sup> August 2023 the tribunal, determined that no offence was committed on the day that the licence application was made. Therefore the end date for the calculation of the maximum RRO is 23<sup>rd</sup> August 2023.
39. Ms Rosa McKechie paid an initial rent in September 2022 of £759 and then a monthly rent of £760.25 for the remaining 11 months of the tenancy. Her claim is up to and including 23<sup>rd</sup> August 2023, the day before the landlord made his application for a licence. Her claim therefore comprises 1 x £759 (£759) plus 10 x £760.25 (£7602.50) plus 23 days at a daily rent of £24.99 (£574.77) This totals £8936.27
40. She gave evidence that she did not receive Housing Benefit or Universal Credit at any time during the tenancy.
41. Ms Megan Wolfe paid an initial monthly rent of £758.00 and then paid a monthly rent of £680 for the duration of the tenancy. Her claim is up to and including 23<sup>rd</sup> August 2023, the day before the landlord made his application for a licence. Her claim therefore comprises 1 x £758 (£758) plus 10 x £680 (£6800) plus 23 days at a daily rent of £22.57 (£519.11) This totals £8077.11
42. She confirmed that she did not receive Housing Benefit or Universal Credit during the tenancy.
43. Javante Thompson paid an initial monthly rent of £758 and then a monthly rent of £826 for the duration of the tenancy. His claim is up to and including 23<sup>rd</sup> August 2023, the day before the landlord made his application for a licence. His claim therefore comprises 1 x £758 (£758)

plus 10 x £826 (£8260) plus 23 days at a daily rent of £26.97 (£620.31)  
This totals £9638.31

44. He gave evidence that he had not received Housing benefit or Universal Credit at any time during the tenancy.
45. Rami Haynes-Johnson paid an initial monthly rent of £758 and then monthly rent of £766.75 for the duration of the tenancy. His claim is up to and including 23<sup>rd</sup> August 2023, the day before the landlord made his application for a licence. His claim therefore comprises 1 x £758 (£758) plus 10 x £766.75 (£7667.50) plus 23 days at a daily rent of £25.18 (£579.14) This totals £9004.64
46. He confirmed that he did not received Housing Benefit or Universal Credit during the tenancy period.
47. The respondent did not dispute the figures provided.
48. The tribunal found that the maximum RRO it could award was
  - (i) Ms Rosa McKeachie - £8936.27
  - (ii) Ms Megan Wolfe - £8077.11
  - (iii) Javante Thompson - £9638.31
  - (iv) Rami Haynes-Johnson - £9004.64

### **Other arguments concerning the amount of the RRO to be awarded.**

#### *Utilities*

49. The tenancy agreement provides that the applicants are responsible for all outgoings on the property. Therefore, there is no basis for any deduction from the amount of the RRO awarded for utilities.

#### *Conduct of the Applicants*

50. The applicants argue that their conduct has been good. They have paid their rent on time and treated the property appropriately.
51. The respondent says that the conduct of the applicants has been poor. They failed to maintain the garden and objected to his retaining some of the deposit to compensate for this



52. He also says that the application is opportunistic. He says that if the tenants had been genuinely concerned about the conditions in the property, they would have contacted the council or got in touch with him directly.
53. The tribunal asked the respondent if he provided the necessary details for the applicants to contact him. He said they were included in the tenancy agreement. When the tribunal considered the agreement at page 54 of the applicants' bundle it noted that whilst the landlord's name and address was provided for the purpose of s.47 and 48 of the Landlord and Tenant Act 1985, no details were provided in the box headed contact details of landlord for the tenants despite the fact that it required the landlord to provide telephone and email details.

### *Conduct of the Respondent*

54. The respondent argues that his conduct has been good. He took proactive steps to ensure that the property was in good conditions and meet his tenants' needs. He said that when he found out that the tenants considered the property was in a poor state of cleanliness at the beginning of the tenancy he was happy to provide as compensation an additional week at the end of the tenancy free of charge.
55. During the tenancy he purchased and installed a new boiler, dishwasher oven and microwave.
56. He also says that he arranged for the house to be professionally cleaned after the tenants moved in.
57. He says that he has always complied with all relevant regulations to maintain the safety and wellbeing of his tenants. He says he provided the legally required documentation including the EPC, the EICR and the Gas Safety Certificate. He ensured that the property has CO2 monitors, smoke detectors, fire doors, a thumb lock on the entrance and the rear doors and all the furniture throughout the property are 30 minutes fire resistant.
58. The respondent included the EPC, the EICR, the Right to Rent booklet in his bundle
59. The applicants argue that the conduct of the respondent has been poor
- (i) There is evidence that he is a professional landlord who has previously let the property as an HMO.
  - (ii) The additional licensing scheme came into effect five months prior to the commencement of the tenancy

and the scheme was designated in December of the previous year so there is no reason why the respondent should not have been aware of the licensing requirements.

- (iii) The applicants do not recall being provided with a current 'How to Rent' guide
- (iv) The applicants were not provided with any formal fire training or fire equipment during the tenancy.
- (v) The landlord attempted to make unfair deductions from the deposit. They disputed £1675 and were awarded £1311.25 by My Deposits.
- (vi) The property was in a poor condition at the start of the tenancy
- (vii) The tenants had a rat infestation in Jan – Feb of 2023 which took some time to be sorted
- (viii) The landlord visited the property unannounced whilst all the tenants were out of the property
- (ix) The applicants paid council tax which should not have been the case as the property was an HMO
- (x) Essential repairs were not duly scheduled and completed. The applicants were without a functional oven and microwave for an extended period of time between September and October 2022.
- (xi) The tenants complained that the heating was unreliable and had broken down on several occasions. The tribunal noted that this complaint was not raised in the applicants' statement of case, but it also noted that boiler repairs and the installation of a new boiler are charged for in the agent's accounts which is indicative of problems with heating.

60. The landlord said that he had not entered the property; he did not have keys. He was able to view the garden from the road and he had had complaints from neighbours. The applicants were adamant that the only way to view the garden was from within the property.

61. The landlord denies that the property was in poor condition at the commencement of the tenancy. Together with the agent he was prepared to concede that the property was not in an appropriate state of cleanliness but said that this was because the tenants had insisted on moving in as soon as the previous tenants vacated.
62. The tribunal asked about the inventory provided in the respondent's bundle at page 48 . The inventory made it clear that the property was not clean. Mr Bayk's response was to dismiss the concerns of the tenants, again saying it was their responsibility as they had chosen to move in immediately.
63. The respondent and Mr Bayk were also dismissive of the applicants' concerns about the lack of cooking facilities. The respondent suggested that the broken microwave was the applicants' fault and Mr Bayk said that whilst the fan function on the oven may not have worked, the hob was working so the applicants were not left without cooking facilities.
64. Mr Bayk said that there were often problems with boilers and heating in a property. These he said were normal occurrences and it appears that the boiler was coming to the end of its useful life which was why it was eventually replaced. He suggested that the gas safety certificate demonstrated that the boiler was working at the commencement of the tenancy.
65. The landlord said that the rat infestation was most probably caused by poor behaviour by the applicants leaving food out. When asked by the tribunal if he had consulted with the pest control officer about the cause of the infestation, he said no. The applicants said that the pest officer told them that there were openings in the property which allowed the rats access.
66. The respondent said that the applicants had been provided with the Right to Rent booklet. He said that it had been signed for by one of the applicants. He referred the tribunal to page which is a docusign message. The tribunal noted that it did not specify what documents had been received.

#### *Financial circumstances of the Respondent*

67. The respondent says that the subject property is his only property other than the one bedroom privately rented property that he currently lives in.
68. The respondent provided no evidence of his financial circumstances. He did however provide submissions that the property was mortgaged with a mortgage of £510,000 which he took out in 2007 when he acquired the property on the death of his wife. He said that the loan was to pay

inheritance tax, but when he was questioned by the tribunal he changed his answer and said that he had to clear gambling debts and therefore mortgaged the property.

69. The respondent said that he had previously owned other property which comprised two 1-bedroom flats which he rented out. He sold these some years ago. He says that he pays out £2987 pcm on mortgage repayments, and pays rent of £1200 pcm. His income comprises the rent on the subject property and income from part time work of £1500 pcm.

### *Submissions of the Applicants*

70. The Applicants provided full submissions on the quantum arguing that failure to licence should be treated as amongst the most serious of offences and that any RRO made for the offence should reflect this.
71. They argue that the respondent has owned the property for 19 years and is a professional landlord. The property has been let to at least one previous set of multi-occupancy tenants and therefore the culpability of the respondent is high. They draw on the case law to argue that there should be no reduction of the RRO, or if there is a deduction it should not fall below 90 – 80% of the maximum payable.
72. The Respondent argues that the quantum should be nil or very low as he has been a good landlord and as soon as he was aware of his failure to licence he took steps to rectify the situation.

### **The decision of the tribunal**

73. The tribunal determines to award a RRO at 65% of the maximum RRO payable. This means that the applicants will be awarded RROs as follows:

- (i) Javante Thompson - £6265
- (ii) Rami Haynes-Johnson - £5853.02
- (iii) Megan Wolfe - £5250.12
- (iv) Rosa Mckechie - £5808.58

### **The reasons for the decision of the tribunal**

74. There is extensive case law on how the tribunal should reach a decision on quantum of a rent repayment order. In reaching its decision in this case the tribunal has been guided by the very helpful review of the decisions in the Upper Tribunal decision *Newell v Abbott and Okrojek* [2024] UKUT 181 (LC).
75. *Acheampong v Roman* (2022) UKUT 239 (LC) established a four stage approach which the tribunal must adopt when assessing the amount of any order. The tribunal in this case has already taken the first two steps that the authorities require by ascertaining the whole of the rent for the relevant period and subtracting any element of that sum that represents payment for utilities that only benefitted the tenant.
76. Next the tribunal is required to consider the seriousness of the offence in comparison with the other housing offences for which a rent repayment order may be made. The failure to licence a property is one of the less serious offences of the seven offences for which a rent repayment order may be made.
77. However, although generally the failure to licence is a less serious offence, the Upper Tribunal recognises that even within the category of a less serious offence, there may be more serious examples.
78. In this case the tribunal considered that the case is a moderately serious example of one of the less serious offences in which a rent repayment order may be made.
79. Its starting point in assessing quantum is that whilst there has been a failure to licence the property, the tribunal notes that the scheme had only been in operation for a few months before the commencement of this tenancy, so this is not a case of prolonged disregard of licensing requirements. In addition it appears that most of the documents required by law at the commencement of a tenancy were provided. The tenants do not accept that they received the Right to Rent booklet, and the respondent's evidence that they had was not clear. However the tribunal does not consider that failure to be of serious significance. Whilst the rat infestation was clearly distressing for the tenants, it appears to have been relatively rapidly dealt with, and the respondent paid the fees for pest control.
80. On the other hand there are other matters which have affected the tribunal's decision on quantum. The tribunal notes that the property was in a poor condition when the tenants moved in; it was dirty and standard provision such as a working oven and microwave were not provided. The tribunal notes that Mr Bayk suggested that a blind for a skylight window in a bedroom was not something that a property would normally provide. He said that the property was advertised as part furnished. He did not produce the advertisement. However the tribunal considers that window coverings in rooms let as bedrooms are a necessity and notes that the

agents did not tell the tenants when they asked for a blind that provision of a blind was their responsibility.

81. The tribunal also notes that there were some problems with heating that took some time to resolve.
82. At the tribunal both Mr Bayk and the respondent demonstrated that they were happy to blame the tenants for any failings in provision and reluctant to accept that serious errors had been made in not ensuring the property was properly equipped from the outset. Mr Bayk agreed that it was also a mistake to inform the tenants that the property had a licence but did not seem to accept that the assertion that the property had a licence would have affected the tenants' decision to rent the property.
83. The tribunal noted that there was an unclear dividing line between those responsibilities that were those of the agent and those of the landlord. Mr Bayk said that they were only responsible for collecting the rent, but did some management. The respondent criticised the tenants for not contacting him about their complaints. However there was no communication with the tenants suggesting that this is what should be done, and further the tribunal notes that Mr Bayk is named as the licence holder on the respondent's application for a licence. This suggests that he has taken on a level of responsibility for managing the property and for being up-to-date with licensing requirements. The lack of clarity has consequences; Mr Bayk and the respondent were always able to say that the applicants should have behaved differently in response to their problems and neither of them took responsibility for the problems of the tenants.
84. Whilst the evidence of the respondent is that he is not a professional landlord, the tribunal, drawing on his statement that he had in the past owned rental properties, concluded that he had relatively extensive experience of being a landlord.
85. These matters have led to the tribunal decision about quantum.
86. The tribunal decided not to reduce the amount payable because of the conduct of the tenants. There was no evidence to support any allegation that the tenants' conduct was anything but good. The tribunal accepted their evidence that they had each paid their rent regularly and had behaved in a responsible manner as regards the property.
87. The tribunal noted that the dispute about the gardening had been resolved and did not take this into account in determining the quantum of the RRO.

88. Whilst the respondent had provided submissions on his financial circumstances, these submissions were not raised in his statement of case and were not supported with evidence. The tribunal did not find his evidence on his financial circumstances credible and determined not to take it into account.
89. At this stage the tribunal considers that a RRO of 65% of the maximum RRO is appropriate and does not consider that any further deductions should be made.
90. In the light of the above determinations the tribunal also orders the respondent to reimburse the applicants their application fee and hearing fee.

**Name:** Judge H Carr

**Date:** 6th May 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).