



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

Case Reference : **MAN/00CX/HMC/2023/0002**

Property : **33 Grange Crescent, Riddlesden,
BD20 5AH**

Applicant : **Mr Richard Barrett**

Respondent : **Ms Shazia Hussain**

Type of Application : **Housing Act 2004, Section 73(5)**

Tribunal Member : **P. Barber (Tribunal Judge)
A. Ramshaw (Tribunal Member)**

DECISION AND REASONS

DECISION

- **The Tribunal dismisses the application for a rent repayment order as it is not satisfied beyond reasonable doubt that a relevant offence has occurred. The circumstances applicable for making such an order therefore do not arise.**

REASONS

Introduction

1. By an application dated 09 June 2023, the Applicant, Mr Richard Barrett made an application for a rent repayment order in relation to the rent he has paid for the property he occupies as an assured shorthold tenant. That property is 33 Grange Crescent, Riddlesden BD20 5AH and the Respondent is his landlord, Ms Shazia Hussain.
2. The Tribunal held an oral video hearing of this application at 10am on the 01 March 2024. Both the Applicant and Respondent appeared in person, and we were able to take evidence from them. The Applicant told us that he was awaiting further evidence from the police, and we agreed to delay making a decision on the application until we had sight of that additional evidence and if necessary, we would send it to the Respondent for comment. As it turns out we did not need to take submissions from the Respondent on that evidence as the police disclosure does not alter the outcome of this application.

Facts

3. The Applicant has occupied the property as a tenant from the 03 June 2020. In his application he alleges that the property is subject to disrepair and that the landlord has failed to comply with an improvement notice served by Bradford City Council. He also alleges that he has been the subject of landlord harassment and threats mentioning that the landlord has sent her son to the property to threaten him.
4. In opposition to the application, the Respondent denies that she has failed to carry out any repairs in contravention of any improvement notice served by the Respondent and that there has been no behaviour on her part which would amount to harassment of the nature of degree necessary to constitute a criminal offence.
5. Bradford City Council served an improvement notice on the Respondent in relation to the property on the 29 September 2022. That notice required various works to be carried out and identified a number of category 2 hazards indicating that the works should be completed by the 10 November 2022. The Respondent enlisted the help of a local firm of solicitors who negotiated with Bradford Council over the carrying out of remedial works and on the 21 April 2023, Bradford Council revoked the Improvement Notice indicating that the

“majority of works contained in the Improvement Notice have been completed.”

6. In his various statements made in these proceedings and in his evidence to the Tribunal, the Applicant made various allegations of harassment and intimidation by the Respondent or members of her family however it is fair to say that none of the incidents are particularly well particularised with times and dates.
7. As mentioned above, the Applicant asked the Tribunal to consider a police report which he sent on the 08 March 2024. We considered that report which is basically a printout from the police crime reports computer system for the period of the Applicant’s occupation of the property. The report substantiates the following incidents (working backwards):
 - a. Between 20 May 2022 and 27 June 2022, the police were involved with investigating a complaint by the Applicant about malicious messages with insulting names being called. There is also a further reference to the Respondent’s son being involved. The police decline to take any further action with the police officer indicating that he/she “cannot see the harassment aspect of this crime as the RP has replied to each message also being awkward towards the suspect” and that the Respondent has started to use abusive language calling the Applicant offensive names, this is because “the suspect has gotten annoyed with the RP as he is refusing to allow her to do a house check and to clean the house...”. The view of the police is that a crime of harassment has not been made out and that the Respondent has been polite throughout the text message exchange until the last message when she “got annoyed”. Otherwise, the police view her messages as “not threatening despite the victim feeling upset by them.”
 - b. On 30 May 2022, there is a report of nuisance telephone calls to the police by the Applicant. No action is taken in relation to this matter.
 - c. There also appears to be a log of what is recorded as nuisance telephone calls on the 17 July 2022, which was also taken no further by the police as it is a “word on word allegation of name calling over the phone”.
 - d. On 24 January 2024, report of a race hate crime in relation to telephone calls from a person who the Applicant believes is the Respondent’s brother who has threatened him. That incident was taken no further by the police as the caller was not known. The Tribunal is unable to link this to the landlord.

8. The Applicant and the Respondent also provided the Tribunal with copies of printouts of various long and at times irksome text messages passing between the Applicant and the Respondent, which demonstrate, it is fair to say, a poor relationship between the two in relation to getting works or repair carried out at the property and finding a suitable time when contractors and such-like might attend.

The Applicable Law


9. Section 41 of the Housing and Planning Act 2016 provides that a tenant may apply to the First-tier Tribunal (FtT) for a RRO against a landlord who has committed an offence to which the 2016 Act applies. The 2016 Act applies *insofar as is relevant to this Application* (emphasis added), for an offence under section 1(2), (3) or (3A) of the Protection from Eviction Act 1977 (eviction or harassment of occupiers) or an offence under section 30(1) of the Housing Act 2004 (failure to comply with improvement notice).
10. Section 43 provides that the FtT may make a RRO if satisfied, *beyond reasonable doubt*, that the landlord has committed an offence to which the 2016 Act applies.
11. Section 44 of the 2016 Act provides for how the RRO is to be calculated. In relation to an offence under section 72(1) the period to which a RRO relates is a period, not exceeding 12 months, during which the landlord was committing the offence.
12. By section 44(4) in determining the amount, we had to take account of the following factors: (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.

Application of facts to the law and our Reasons

13. On the basis of the evidence, we were not satisfied that any relevant offence had been committed by the Respondent and we can deal with all the allegations briefly as they all have little if any merit.
14. In relation to the alleged breach of the failure to comply with the improvement notice this is clearly without foundation. As mentioned above, Bradford City Council revoked the notice in April 2023 and accordingly it is not possible for it to have been breached.
15. In relation to the allegation of a criminal offence under the Protection from Eviction Act 1977, the Applicant has

not been deprived of his accommodation and there has been no attempt to do so and accordingly, subsection 1(2) is not made out.

16. We also do not find that there is any evidence upon which we can rely to substantiate the allegation that the Applicant has been harassed to the criminal standard in a way which would satisfy the requirements of either section 1(3) or 1(3A) of the 1977 Act.
17. Subsection 1(3) of the Act provides, paraphrased, that any person will be guilty of an offence if they do any acts which interfere with the peace or comfort of the occupier or persistently withdraws services with the intention of causing the occupier to give up occupation or refrain from exercising a right or remedy. Subsection 1(3A) is in similar terms but provides for knowledge or reasonable cause to believe that the conduct is likely to cause the occupier to give up occupation.
18. We do not think the text messages, telephone calls or any other evidence as to the conduct of the Respondent comes anywhere close to making out a case to the criminal standard of an offence of harassment. The police, armed with all the relevant information and after detailed consideration of the issues have declined to take the matter any further, describing the allegations as name calling and non-threatening and we agree with that assessment. What the text messages demonstrate to us is a landlord trying to comply with various repairing obligations and then getting frustrated with the difficulty in getting things sorted out. We do not think that any of the text messages interfere with the Applicants peace and comfort in the sense envisaged in section 1 of the Act and neither do we think that there was any intention or reasonable belief on the part of the Respondent that her actions might lead to the Applicant ceasing to occupy the property.
19. Any party can appeal this decision to the Upper Tribunal. Guidance notes are attached on the process for doing so.

Signed  Dated 26 April 2024

Phillip Barber, Judge of the First-tier Tribunal