



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

**Case Reference** : **CHI/43UB/HMB/2024/0003**

**Property** : **57 Dunsmore Road, Walton, Surrey  
KT12 2LJ**

**Applicant** : **Ms Danielle Baron**

**Representative** : **N/A**

**Respondent** : **Mr Lloyd Wood**

**Representative** : **Mr Kavish Shah (counsel)**

**Type of Application** : **Application for a Rent Repayment Order  
by tenant (ss40 to 45 Housing and  
Planning Act 2016)**

**Tribunal Members** : **Judge R Cooper  
Ms T Wong  
Mr K Ridgeway MRICS**

**Date and venue of Consideration** : **13/02/2025  
Havant Justice Centre**

**Date of Decision** : **2/05/2025**

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**DECISION**

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**The Application is refused. The Tribunal determines the Respondent and his managing agents are not guilty of an offence**

**under s1(2), 1(3) or 1(3A) of the Protection from Eviction Act 1997, and there are no grounds to make a Rent Repayment Order.**

(References in this decision to page numbers in the Appellant's appeal bundle appear as '[ ]' References to page numbers in the Respondent's appeal bundle appear as '[R ]')

**Background to the application and the hearing**

1. On 12/09/2016 Ms Danielle Brown entered into a tenancy agreement for 57 Dunmore Road, Walton, Surrey KT12 2LJ ('the Property') for a three-year term with her then husband, Neil Baron [153]. The landlord was Mr Wood, who is the Respondent in this application. Mr Wood lives in Australia and the property is managed by Martin Flashman & Company who are estate, letting and property management agents ('the Agents').
2. On 10/9/2022 the tenancy was renewed for a further 3-year term expiring on 9/09/2025 [583]. The tenancy agreement was in similar terms. At this time Ms Baron had divorced and the tenancy was in her sole name. She lived there with her two children. The property continued to be managed by the Agents.
3. On 4/07/2024 the Tribunal received an application from the Applicant under s41 Housing and Planning Act 2016 ('the 2016 Act') seeking a Rent Repayment Order ('rent repayment order') on the grounds that the Respondent had breached the repairing covenant implied by s11 of the Landlord and Tenant Act 1985 for 8 years, and on the basis of harassment contrary to the Protection from Eviction Act 1977 [4].
4. The Applicant seeks to recover from the Respondent the rent she paid for her occupation of the Property for the period from 5/07/2023 to 4/07/2024 [21], a sum of £19,100.
5. The Applicant also applies for reimbursement of the application fee £110 and hearing fee of £220 [18].
6. Ms Jo Grist (a Legal Officer) issued directions to the parties on 28/11/2024. They included directions for the filing of all evidence relied on and for the preparation of the bundle for the hearing.
7. On 27/01/2025 an application was made by Ms Baron for the Respondent to be debarred from filing a Respondent's bundle. Unfortunately, that application was not determined in a timely fashion and was overtaken by events as the Applicant and the Respondent separately filed bundles.
8. A request for two of the Respondent's witnesses to attend by video link was granted on 11/02/2024 because the Tribunal had changed the time of the hearing to take place in the morning.

**Issues in the appeal**

9. The Applicant applies for a Rent Repayment Order (RRO) under s41 of the

2016 Act for the period 5/07/2023 to 04/07/2024. She claims the sum of £19,100 in rent paid over that period.

10. A rent repayment order can only be made where the Tribunal is satisfied that the Respondent had committed one or more of the seven specified offences (set out in s40 of that Act). In this case, the Applicant asserts the Respondent committed offences under s1(2), (3) and/or (3A) of the Protection from Eviction Act 1977.
11. Before it may make a rent repayment order the Tribunal must be satisfied to the criminal standard (i.e. beyond reasonable doubt) that the specified offence has been committed (s43(1)).
12. If satisfied an offence has been committed, s43(3) requires the Tribunal to consider whether to make a rent repayment order and the amount of any order must be determined. In the case of an application made by a tenant the Tribunal is required to consider the relevant factors set out in s44.
13. As the alleged offence is one appearing in row 2 of the table in s40(3) of the 2016 Act, the amount of any rent repayment order must relate to the rent paid in a period not exceeding 12 months ending with the date of the offence (s44(2)). It must not exceed the rent paid by the Applicant in respect of that period (less any Universal Credit (or Housing Benefit) paid) (s44(3)). The Tribunal must take into consideration the matters set out in s44(4) namely conduct of the Applicant and Respondent, the financial circumstances of the Respondent and whether he had been convicted or fined for any of the offences listed in s40(3).

### **The Law**

14. So far as relevant to this application in relation to the Housing and Planning Act 2016 ('the 2016 Act') is set out in the Appendix to this decision.
15. The relevant provisions of the Protection from Eviction Act 1977 are as follows:

#### ***1.— Unlawful eviction and harassment of occupier.***

*(1) In this section "residential occupier", in relation to any premises, means a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of the premises.*

*(2) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that*

*he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.*

*(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 Documents**

16. Before the hearing, the Tribunal had considered the documents in the appeal bundle provided by the Appellant (638 pages of PDF), the skeleton argument and bundle of authorities submitted by Mr Shah, and the Local Authority's response to Ms Baron's complaint, submitted by the Applicant. The Respondent had separately submitted a bundle (725 pages of PDF) which the Tribunal had not read.
17. At the start of the hearing, we clarified with the parties whether there were additional documents we needed to consider which there were.
18. We obtained a copy of Ms Baron's skeleton argument which we read before the hearing re-commenced. We were provided with hard and electronic copies of the Respondent's bundle. Mr Shah confirmed that the additional papers in the Respondent's bundle were some of the exhibits from their witness statements which had not been included by Ms Baron in the Applicant's bundle.

## **The hearing**

19. Ms Baron attended the hearing alone. Mr Wood attended, represented by Mr Kavish Shah of counsel. The Respondent's witness, Kirsty Read, attended in person, and Mr Sonny Lovell attended remotely by video. Also in attendance was Miss Amber Wood of the Agents who did not give evidence and another observer. Mr Sonny Lovell attended and gave evidence by video link.
20. Ms Baron confirmed that Ms Aldrich was unable to attend due to her health (this was also referred to in her statement) and Mr Watts was unable to attend due to a restraining order issued by the Court.
21. Mr Shah confirmed that Mr Stent would not be in attendance. It was agreed his statement related to matters outside the Relevant Period.
22. The recording of the hearing stands as the record of proceedings.

## **Discussion and reasons for the decision**

### The application

23. The Applicant's case is contained in the application, witness statements of Ms Baron, Ms Aldrich and Mr Watts and evidence [4] to [10], [21] to [31], Maureen Peart's response to Ms Baron's complaint to Elmbridge Borough Council, and her skeleton argument served by email.
24. In summary she says the Respondent has committed an offence under the Protection from Eviction Act 1977 ('the 1977 Act') by
  - (a) Failure to carry out repairs, in breach of s11 of the LTA 1985, including in particular his failure to repair the dishwasher, the rotten and mouldy worktop, the lounge ceiling (which partially collapsed and injured her), the conservatory, and stair carpets.
  - (b) Harassment by
    - making false accusations (for example that she had removed sealant from around the shower tray, left a key in the front door preventing entry, that she had damaged new carpet etc),
    - breaking earlier promises (for example that she could repaint)
    - changing the tenant's responsibilities under the tenancy agreement (relating to cleaning guttering and trimming hedges)
    - inappropriate communications (in particular comments about her) and discriminatory conduct towards her
  - (c) Failing to provide compensation when she had to move out for 2 days while work was carried out to the ceiling of the lounge.
  - (d) Failing to test for asbestos in the ceilings.

### The Response

25. The Respondent's case is set out in the witness statements of Mr Wood, Miss Read, Mr Lovell, the supporting evidence [R311] to [R716] and the skeleton argument of Mr Shah. In summary, the Respondent says the allegations made by Ms Baron even if proven would not constitute an offence under s1(2), (3) or (3A) of the Protection from Eviction Act 1977. In any event, he denies the allegations made by the Applicant. He says repairs were carried out within a reasonable timescale, the Applicant had carried out unauthorised alterations to the property (such as painting over a transom window and over varnished wood) and had failed to comply with her obligations under the tenancy agreement (to trim shrubs in the garden and clear the guttering). He denies that he or his agents have harassed the Appellant or carried out acts with the intention of evicting her or to refrain from exercising her rights or pursuing any remedy in relation to the property.

### **Decision and reasons**

26. Having considered the totality of the evidence in the round, the Tribunal was not satisfied beyond reasonable doubt that either Mr Wood or his Agents were guilty of an offence under s1(2), 1(3) or 1(3A) of the 1977 Act for the reasons set out below. Having reached that conclusion there was no basis on which a rent repayment order could be made and no need for the Tribunal to go on to consider the matters set out in sections 43(3) and 44 of the 2016 Act. However, it was agreed between the parties that Ms Baron had paid her rent in full for the period 5/07/2022 to 4/07/2024.
27. At the start of the hearing, Ms Baron confirmed that in her application for a rent repayment order she relied on an offence under the Protection from Eviction Act 1977 and none of the other six offences set out in s40(3) of the 2016 Act. This confirmation was quite properly made, as there was no evidence before the Tribunal that the Local Authority had served an Improvement Notice or Prohibition Notice on Mr Wood. The property was not a House in Multiple Occupancy (HMO) or a property which needed to be licenced, and there was no evidence or accusation that Mr Wood or the Agents had used violence to secure entry or breached a Banning Order.
28. It was accepted by the parties that the period in which any offence under s1(2), (3) or (3A) of the 1977 Act must be proven in this application was the 12-month period from 5/07/2023 until the 4/07/2024 ('the Relevant Period').
29. At the start of the hearing and given the range of complaints made in the application and her witness statements the Tribunal rose to give Ms Baron time to identify which of the allegations she wished to rely on that fell within the Relevant Period.
30. In relation to the question of whether Mr Wood, his Agents or anyone else was guilty of an offence under s1(2) the Tribunal finds such an offence is not made out for the following reasons.

31. The Tribunal was satisfied that Ms Baron has not been permanently deprived of her occupation of the Property either during the Relevant Period or at any time before or after. Her tenancy was renewed in 2022, expiring in September 2025. She has not been evicted and was still residing at the Property at the date of the hearing.
32. The Tribunal accepts that a deprivation of occupation can be in relation to a part of the premises, and the offence can be made out even if deprivation is for a temporary period.
33. Ms Baron complains she has been deprived of the use of the conservatory because of the disrepair and has not been compensated for having to leave the property in June 2024 while repairs were carried out. The Tribunal has also considered whether being unable to use the ensuite shower for a period between 30/04/2024 and when repairs were completed on 19/06/2024 could constitute an offence.
34. An offence under s1(2) of the 1977 Act is only committed if the act complained of has the character of an eviction (per Kerr LJ in R v Yuthiwattana (1984) 80 Cr.Appellant.Rep 55). The Tribunal is not satisfied that the matters complained of have any such character. For the reasons set out below the complaints regarding the inability to use the conservatory relate to alleged disrepair. The lack of use of the shower was to prevent further water leakage or damage, and Ms Baron herself decided to vacate the property for the 18/06/2024 and 19/06/2024 while works were carried out. These do not, therefore, have the character of an eviction.
35. In relation to whether these same acts could constitute an offence under s1(3) the Tribunal is satisfied that any acts complained of must have been done *'with intent to cause the...occupier....(a) to give up the occupation...or (b) refrain from exercising any right or pursuing any remedy....'*In relation to s1(3A) the tenant must demonstrate that the landlord or agent knew or had reasonable cause to believe that their conduct was likely to cause the residential occupier to give up occupation or refrain from exercising rights or pursuing remedies in relation to the premises.
36. Whilst Ms Baron complains that she has been deprived of the use of the conservatory because Mr Wood had failed to carry out adequate repairs, she confirmed the leaks had been repaired in January 2023 before the relevant period. The only outstanding matter relating to the conservatory in the Relevant Period, therefore, is her complaint that it was draughty and poorly insulated. However, for the reasons set out below at paragraphs 42 to 49, the Tribunal is satisfied that even if failing to take action was a breach of the landlord's repairing obligation it cannot be an act capable of being the basis for an offence under the 1977 Act. For the avoidance of doubt, the Tribunal makes no findings as to any alleged breach.

37. In relation to the ensuite shower room, the Tribunal accepts that Ms Baron was told not to use the shower by the contractor who attended to inspect on 3/05/2024 after Ms Baron reported the crack in the ceiling and evidence of water leakage on 29/04/2024 and 30/04/2024 [84] and [85]. She was asked not to again on the 15/05/2024 [95]. It is also the case that she was instructed in writing by the Agents on 24/05/2024 not to use the ensuite shower because the shower unit was no longer watertight. Ms Baron confirms it was not used.
38. However, although she was instructed not to use the shower, we find that there is no evidence demonstrating this instruction was given with an intention for Ms Baron to give up her occupation of part of the premises or refrain from exercising any rights or remedies in relation to it. Rather it is clear from the correspondence that the intention was to ensure there was no further damage caused by water leaking into the lounge below. Ms Baron has produced no evidence to suggest that the instruction was given by the Agents knowing or with reasonable cause to believe it was likely to result in Ms Baron giving up occupation or refrain from exercising rights or pursuing remedies. In any event, there were clearly reasonable grounds for that instruction, and the Tribunal was satisfied there were other bathroom facilities available for the household to use in the property as this is what Ms Baron told the Agents [85].
39. In relation to Ms Baron's complaint regarding the delay in carrying out investigations and repairs to the ensuite bathroom and the lounge ceiling, for the reasons set out below at 43 to 50, the Tribunal is satisfied that a failure to repair cannot be the basis of an offence under the 1977 Act as it is not an act. Ms Baron has produced no evidence capable of demonstrating beyond reasonable doubt that the landlord or his Agents had been responsible for removal of the sealant which had resulted in the leaks and ultimately the ceiling collapse. Although she was asked not to use the shower, this was not a withholding of services.
40. As to whether Ms Baron and her children were unlawfully deprived of the use of the property for two days on the 18/06/2024 and 19/06/2024 whilst the ceiling repairs were carried out after the lounge ceiling partially collapsed on 28/05/2024, the Tribunal finds they were not. Although Ms Baron in her skeleton argument says she was '*forced to leave the property*' that is not what the evidence shows. The Tribunal finds there was no requirement for her to leave. It is clear from her email of 11/06/2024 that Ms Baron herself made the decision to leave the property because she was concerned about the dust [263]. The Tribunal finds that two days was a reasonable period for carrying out works to repair and make good the ceiling and reseal the ensuite shower unit. There is no absolute right for a tenant to be provided with alternative accommodation, particularly where they have voluntarily agreed to vacate.
41. Although Ms Baron says that her daughter had to leave the property in December 2024 to live with her father because of the issues at the house, this was after the Relevant Period. In any event, there is no documentary



evidence demonstrating to the Tribunal beyond reasonable doubt that this was on account of any actions by the Respondent or his Agents.

42. Most of the allegations Ms Baron makes in her application relate to complaints that the Respondent and his Agents failed to carry out repairs at the property in what she considered to be a timely manner or at all during the 8-years of the tenancy. Those that Ms Baron confirmed related to the Required Period included a failure to repair the dishwasher, to replace the rotten and mouldy worksurface around the kitchen sink, to replace the worn stair carpet, to repair the lounge ceiling and to adequately prevent draughts and insulate the conservatory.
43. The Tribunal finds such complaints are not capable of amounting to an offence under s1 of the 1977 Act. This is because it must be shown there was a positive intent to cause the occupier to give up the premises, not simply 'hopeless inactivity' on the part of the landlord or agent (as per McCall v Abelesz [1976] QB 585 at 598). The Court of Appeal in R v Zafar Ahmad (1987) 84 Cr.Appellant.R (per Glidewell LJ at 70) also held that the 1977 Act must be strictly construed and the words 'does acts' in s1(3) must refer to positive acts, and confirmed that the 1977 Act did not impose a responsibility to rectify damage unless that damage had been with an intention to cause the tenant to give up occupation or refrain from exercising their right or pursue a remedy.
44. The Tribunal is satisfied that the same principle must apply to s1(3A) of the 1977 Act (which came into effect after the decision is Zafar Ahmad) as a constituent part of the offence requires that a landlord or agent 'does acts' likely to interfere with the peace or comfort of the residential occupier.
45. In Schon v Camden LBC (1986) 18 HLR 341 the Court also confirmed that persuading a person to leave for a limited period in order to enable works to be carried out, and thereafter allow the person to return was not an intent to cause the tenant to give up occupation of the premises.
46. In relation to the various matters complained of regarding disrepair in Ms Baron's application and witness statements, the Tribunal finds that they are all complaints regarding alleged breaches of covenant which are, for the reasons set out below outwith the jurisdiction of this Tribunal.
47. Whilst Ms Baron complains regarding breaches of repairing covenants, when looking at the evidence as a whole the Tribunal found in general terms the landlord showed an interest in maintaining the property and taking action to deal with problems, albeit not as swiftly as or in the way Ms Baron believed he should. For the avoidance of doubt, however, the Tribunal makes no findings as to the alleged breaches or disrepair. If she wishes to pursue these complaints it must be in a different forum.
48. In January 2023, before the Relevant Period, works were completed to the exterior of the conservatory to make it watertight, but Ms Baron says they failed to act to remedy the draughtiness and failed to insulate it. In relation

to the worksurface she says the landlord failed to take action knowing at the time she moved in in 2016 that there were black marks around the sink which had become progressively worse, until the wood was rotten and mouldy. In relation to the dishwasher her complaint is that it was not replaced sooner given the repairs that were undertaken failed to resolve the ineffective washing of dishes. In relation to the ceiling in the lounge, she complains that the failure to take action swiftly after she reported the problem on 29/04/2024 led to a portion of the lounge ceiling falling on 28/05/2024. The Tribunal is also satisfied that these and other complaints made in her statements regarding Mr Wood's and the Agents' alleged inaction in response to her complaints (which are all denied by the Respondent) do not amount to a positive act, and so cannot be the basis of an offence under the 1977 Act.

49. For the same reasons, Ms Baron's complaints regarding Mr Wood's failure to obtain a report regarding potential asbestos in the ceilings of the property when she requested it is not capable of being the basis of an offence under s1 of the 1977 Act.
50. As regards the remainder of the grounds on which Ms Baron's application is brought, these can broadly be grouped together as her complaint regarding acts of harassment. Ms Baron complains that Mr Wood and the the Agents have treated her differently from her neighbour or ex-husband, have discriminated against her, have done acts that have threatened or caused her distress or alarm, have failed to keep earlier promises and have made false allegations against her. The Tribunal has not in this decision addressed each and every one of the many allegations made by Ms Baron. Some because they do not fall within the Relevant Period but relate to things Ms Baron says occurred before or after it, including allegations regarding harassment during the course of these proceedings.
51. Whilst Ms Baron may consider these various matters to be harassment, the Tribunal was not satisfied beyond all reasonable doubt that the acts complained of were acts capable of constituting an offence or offences under the 1977 Act when taken either singly or together. The Tribunal finds in relation to each complaint (and the complaints as a whole) that they were not acts carried out with the intention of causing Ms Baron or her children to give up occupation of the Property or to refrain from exercising rights or pursuing remedies in relation to the premises. Ms Baron has not demonstrated that they were acts likely to interfere with her or her family's peace and comfort which Mr Wood or the Agents knew or had reasonable cause to believe that the conduct complained of was likely to cause her or her children to give up occupation of the Property or refrain from exercising rights or pursuing remedies in relation to the premises. The Tribunal in this decision deals with the main categories identified by Ms Baron at the start of the hearing, but the same reasoning applies to all of the allegations made in her statements and those raised for the first time in the hearing.
52. The Tribunal finds Mr Wood has had no direct contact with Ms Baron either face to face, by email, telephone or other form of communication in

the entire 8-year period of her tenancy (including the Relevant Period). Their first direct contact was at the hearing. This lack of direct contact is one of the Applicant's complaints. We accept Mr Wood's evidence that as he lives in Sydney, he relies on professional agents to manage the property. The evidence before us indicates that he was in regular contact with the Agents before, after and during the Relevant Period. He was consulted by the Agents regarding requests or complaints made by Ms Baron, about works required at the property, and he gave instructions to the Agents who were in contact with Ms Baron. Although Ms Baron makes allegations of harassment against him, there is simply no such evidence.

53. The Tribunal finds that the correspondence between Ms Baron and the Agents does not amount to either harassment, or an attempt to unlawfully deprive Ms Baron of her occupation of the Property. Nor can they be said to amount to acts interfering with her peace and comfort with intent to cause her to give up occupation or refrain from exercising her rights or remedies. Nor has Ms Baron proved the landlord or the Agents knew or had reasonable cause to believe such correspondence would cause Ms Baron to refrain from exercising any right or pursuing any remedy in relation to the Property or give up occupation.
54. In the main, the Tribunal finds the email correspondence relied on by both parties to be evidence of Ms Baron reporting problems, making complaints about disrepair or the failure to repair, or complaints about requests made of her and the Agents responding to those emails. The correspondence also largely relates to the arrangements necessary for resolving issues; for example, the making of arrangements for contractors to attend to inspect (including re-arranging visits), provide quotes and carry out works. These are all matters which are a necessary part of the landlord/tenant relationship. The Tribunal found the tone of the Agents' correspondence with Ms Baron in the main to be neutral and professional on almost every occasion. The content, nature and tone of that correspondence does not amount to harassment.
55. Whilst Ms Baron may disagree with what is said by the Agents regarding cancelled or re-arranged contractor's visits, on her own evidence she admits being at a conference on one occasion without informing the contractor of that fact. On other occasions, the email evidence shows she requested the re-arrangement of appointments, for example so she could be with her mother who was having an operation.
56. The Tribunal finds that the correspondence relating to the tenant's acts of redecoration in the property, to the cleaning of guttering and the maintenance of the garden (and in particular the trimming of the shrubs/high hedgerow in the garden) to be correspondence not untypical of disputes between landlords and tenants regarding their respective duties and obligations under the relevant tenancy agreement. The content, nature and tone of that correspondence does not amount to harassment.
57. Ms Baron complains that she was threatened with eviction which caused distress. The Tribunal is satisfied that on one occasion on 24/05/2024 Ms

Baron was warned that if she continued to make alterations or repairs without consultation or permission, Mr Wood ‘*may issue you with a Section 8 notice, seeking possession of the Property under Schedule 2 of the Housing Act 1988 Section 8 (as amended), citing Grounds 12 & 13*’, (namely breach of tenancy term or behaviour of the tenant causing deterioration of the condition of the property) [276]. This followed an earlier letter of 1/03/2024 regarding alleged alterations which the Respondent said were carried out without permission (including painting over varnished wooden surfaces, repainting and painting over a glass transom window). That letter from the Agents requested signed confirmation the property would be put back into its original state at the end of the tenancy [222]. It would appear such written confirmation was not provided by Ms Baron.

58. The Tribunal found the letter of 24/05/2024 indicated that the landlord and his agents were fully aware that a tenant cannot be evicted without due legal process. Such a warning is entirely appropriate where there are alleged breaches of tenancy terms. If the landlord had indeed served a s8 notice, and issued proceedings for possession, Ms Baron would have an opportunity to defend those proceedings and dispute the breaches alleged within those proceedings. The content and nature of that correspondence does not amount to harassment even if Ms Baron does not accept what the Agents said regarding her actions.
59. As Mr Shah says, Ms Baron had been a tenant since 2016, and had Mr Wood wanted her to leave, all he needed to have done was serve her with a notice under s21 of the Housing Act 1988 and apply to the Court for a possession order, but he had not done so.
60. The Tribunal was also satisfied from the correspondence at [R552] that in August 2024 Ms Baron herself had asked to terminate the tenancy agreement early. The evidence shows that Mr Wood had been accommodating [R551] had agreed her request subject to two months’ notice being given. However, in the event such notice was not served, and Mr Wood has accepted that the tenancy would continue. These are not the actions of a landlord seeking to harass a tenant into vacating a property without due process.
61. The Tribunal accepts that some of the correspondence between Mr Wood and the Agents staff members in September 2023 was sarcastic about Ms Baron and included a website link to personal information about her [117] to [118]. It accepts that Ms Baron was distressed when she saw that correspondence. However, the Tribunal is satisfied that this correspondence was not addressed directly to her. She only became aware of it in the course of these Tribunal proceedings, after the Relevant Period.
62. In any event, although the Tribunal accepts that Ms Baron was upset by it, the Tribunal did not find the email correspondence evidence of harassment or an act with the intention of unlawfully depriving her of her occupation of the property. Nor did we find it to be an act or course of acts interfering with her peace and comfort where Mr Wood and/or the Agents

knew their conduct was likely to cause Ms Baron to give up occupation of the Property or refrain from exercising rights or pursuing a remedy in relation to the Property. This is because in these same email exchanges the landlord and the Agents were discussing the arrangements for the replacement of the stair carpet which Ms Baron had been requesting. The Tribunal also finds that the personal information referred to in the email was a link to a website of publicly available information.

63. As regards the Applicant's complaint that false accusations were made against her, the Tribunal finds that although allegations were indeed made by the Agents about Ms Baron's actions, they were not made without reasonable foundation. The Tribunal finds that Ms Baron was accused of removing or tampering with sealant around the shower tray but is satisfied that was based on a report the Agents had received from contractors who had attended to inspect after the problem with the lounge ceiling was reported on 29/04/2024. Ms Baron admits to painting over the transom window for privacy purposes, and to sanding and painting previously varnished wooden surfaces [223].
64. When looking at the evidence as a whole the Tribunal did not find accusations of bullying, discrimination or gaslighting to be made out on the evidence before it as claimed.

#### Conclusion

65. Having made those findings of fact, and reached those conclusions the Tribunal was not satisfied beyond reasonable doubt that Mr Wood or the Agents were guilty of an offence under ss1(2), 1(3) or 1(3A) of the 1977 Act. It therefore determined that a Rent Repayment Order could not be made, and so refused Ms Baron's application.
66. In relation to the Application and Hearing Fees sought by the Applicant the Tribunal refuses the application, because Ms Baron did not succeed in her application.

**Judge R Cooper**  
**Date 25/02/2025**

#### **Note: Appeals**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office that has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

## **APPENDIX 1**

The following are relevant excerpts from the Housing and Planning Act 2016 legislation referred to in this decision

### **Housing and Planning Act 2016**

#### **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.
- (3) 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.

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
1	<u>Criminal Law Act 1977</u>	section 6(1)	violence for securing entry
2	<u>Protection from Eviction Act 1977</u>	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	<u>Housing Act 2004</u>	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).

#### **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.

#### **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).

#### **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.