



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

**Case reference** : **LON/00BE/HMF/2024/0622**

**Property** : **Flat 35 Otford House, Staple Street,  
London SE1 4LS**

**Applicants** : **(1) Hei Tung Natalie Cheung  
(2) Wai Kit Chong  
(3) Sum Yu Wong  
(4) Robert Alfred Tang**

**Representative** : **Mr Leacock, Justice for Tenants**

**Respondent** : **(Oluseyi Abayomi Adeboyega (AKA Seyi  
Adeboyega)**

**Representative** : **In person**

**Type of application** : **Rent Repayment Order – ss 40,41,43 & 44  
of the Housing and Planning Act 2016**

**Tribunal  
member(s)** : **Judge Tagliavini  
Mrs A Flynn MRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of hearing** : **6 May 2025**  
**Date of decision** : **20 June 2025**

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**DECISION**

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## The tribunal's decisions

- (1) The tribunal makes an order requiring the respondent to pay to the applicants the sum of £19,981.80.
  - (2) The tribunal makes an order requiring the respondent to reimburse the applicants with £330 for the application and hearing fee paid by them to the tribunal.
  - (3) The tribunal directs that the sums of £19,981.80 and £330 are to be paid within 21 days of the date of this decision being sent to the parties.
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## The Application

1. This is an application made under s.41 of the Housing and Planning Act 2016 for the offence of having control of, or managing an unlicensed HMO, under Part 2 s.72(1) Housing Act 2004.

## Background

2. The subject property is a three-bedroom self-contained flat at **Flat 35 Otford House, Staple Street, London SE1 4LS ('the flat')**, with a shared kitchen and bathroom situated in a purpose built five storey block of flats. The applicants assert that the subject flat was required to be licensed under an Additional Licensing Scheme implemented by the London Borough of Southwark which came into force on 1 March 2022 for a period of five years.
3. The Applicants seek an RRO for the period between 17 August 2022 to 16 August 2023 in the total sum of £31,200.00 (amended to £30,741.23 at the hearing):
  - (i) Hei Tung Natalie Cheung seeks a RRO in the sum of £9,600.00 for the period of 17/08/2022 to 16/08/2023
  - (ii) Robert Alfred Tang seeks a RRO in the sum of £10,200.00 for the period of 17/08/2022 to 16/08/2023
  - (iii) Sum Yu Wong seeks a RRO in the sum of £5,700.00 for the period of 17/08/2022 to 16/08/2023
  - (iv) Wai Kit Chong seeks a RRO in the sum of £5,700.00 for the period of 17/08/2022 to 16/08/2023.

## **Litigation history**

4. The tribunal gave Directions for the conduct of this application dated 1 November 2024.

## **The Law**

5. This application is being made under s.41 of the Housing and Planning Act 2016 for the offence of having control of, or managing, an unlicensed HMO, under Part 2 s.72(1) Housing Act 2004 which is an offence under s.40(3) of the Housing and Planning Act 2016. 2. The Housing Act 2004 Part 2 s.72(1) states:

*(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.*

6. The Housing Act 2004 Part 2 s. 61(1) states:

*(1) Every HMO to which this Part applies must be licensed under this Part unless—*

*(a) a temporary exemption notice is in force in relation to it under section 62, or*

*(b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4.*

7. Section 55 of the Housing Act 2004 states:

*(1) This Part provides for HMOs to be licensed by local housing authorities where—*

*(a) they are HMOs to which this Part applies (see subsection (2)), and*

*(b) they are required to be licensed under this Part (see section 61(1)).*

*(2) This Part applies to the following HMOs in the case of each local housing authority—*

*(a) any HMO in the authority's district which falls within any prescribed description of HMO, and*

*(b)if an area is for the time being designated by the authority under section 56 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation*

### **The hearing and the parties' contentions**

8. At the remote video hearing, the tribunal was provided with a digital bundle of 405 pages which included witness statements from the four applicants. In addition, the tribunal was provided with the applicants' reply (unpaginated) and a 44 digital page bundle from the respondent as well as a skeleton argument from the applicants. The applicants attended and were represented by Mr Leacock from Justice for Tenants.. The respondent appeared in person
9. The applicants asserted, that throughout the relevant period for which the RRO is claimed, the subject flat was occupied by the four applicants who formed two or more households as their main or only accommodation. throughout the relevant period the flat was unlicensed. The applicants assert that the respondent as their landlord as named on the tenancy agreement dated 17 August 2022 as well as the registered owner, is the relevant person who had the control or management of the said flat and the person who received the rent paid by them.
10. The applicants told the tribunal they had complied with their tenant's obligations, that the rent was paid in full and that none of them had been in receipt of the housing costs element of Universal Credit during the period of their occupation. In a reply to the respondent's submissions the applicants asserted they had not been provided with Gas Safety Certificate and Energy Performance Certificate before moving into the subject flat and stated *that 'it did not fulfil fire safety requirements, such as having a fire door as the kitchen door.'*
11. In a Statement (undated), the respondent admitted the commission of the offence and sought only to mitigate the level of the RRO that the tribunal should award to the applicants. In support of this submission the respondent told the tribunal he had complied with his obligations as a landlord, except for an application for an Additional Licence which was eventually made on 9<sup>th</sup> December 2024 to the London Borough of Southwark.

### **Reasons for decision**

12. In view of the respondent's admissions, the tribunal is satisfied beyond all reasonable doubt the alleged offence has been committed; that the respondent was the person having control or management of the subject flat throughout the relevant period. The tribunal is also satisfied that the

respondent did not seek to raise any 'reasonable excuse' defence whether expressly or implicitly in his documentary or oral evidence.

## Quantum

13. In considering the amount of the RRO the tribunal had regard to the approach set out in ***Acheampong v Roman* [2022] UKUT 239 (LC)** in which the Upper Tribunal established a four-stage approach the Tribunal must adopt when assessing the amount of any order. The applicants submitted that this required the tribunal to:
  - a. Ascertain the whole of the rent for the relevant period;*
  - b. Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal is expected to make an informed estimate where appropriate.*
  - c. Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence? That percentage of the total amount applied for is then the starting point (in the sense that that term is used in criminal sentencing); it is the default penalty in the absence of any other factors but it may be higher or lower in light of the final step:*
  - d. Consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in **section 44(4)**.*
14. Section 44 of the Housing and Planning Act 2016 states:
  - (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. (omitted)*
  - (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.*

15. The applicants also referred the tribunal to **Newell v Abbot [2024] UKUT 181 (LC)** and submitted that:

1. *The Upper Tribunal decision in **Newell v Abbot [2024] UKUT 181 (LC)** was an appeal with a number of material similarities to the instant case. In Newell, the appropriate starting point was determined to be 60% of the rent paid. The tribunal took into account that*

- a. The Respondent is an amateur as opposed to a professional landlord.*
- b. The breach which occurred was inadvertent.*
- c. The property was in good condition; and*
- d. A licencing offence was committed (section 95(1), HA 2004).*

2. *While there are similarities between **Newell** and the instant case may suggest a similar starting point of 60% of the rent claimed would be warranted, the Applicant submits that the instant case is substantially more serious than Newell given:*

- a. Breached section 8 of the 2006 Duties;*
- b. Breached section 234(3) of the Housing Act 2004; and*
- c. Breached the local authority HMO standards.*

16. The respondent told the tribunal that the flat had been a family home for over thirty years and that as he had been abroad, he had engaged the services of Cubix Estate Agents to manage the property in his absence. However, the respondent also stated:

*The appointed managing Estate Agents, Cubix, at the time had received instructions in the month of November 2022, to pursue the application or the licensing of HMO. For reasons of cash flow constraints, we concluded that the Application could be lodged in the month of January 2024.*

17. The respondent also stated that he had carried out a number of repairs and had reported issues with the windows to his landlord, the London Borough of Southwark, as these remained their responsibility under the terms of his long lease and was required to pay service charges in the

region of £1,50 for 2023/2024 as well as his managing agent's fees of 8% plus VAT of the rent of £2,600 pcm. The respondent told the tribunal he believed an RRO should be made in the sum of £6,000.

18. The tribunal finds that the rent for the 12 months period claimed amounts to £30,741.23, from which no deductions for the receipt of universal credit or utilities are required. The tribunal further determines that no deductions are required to reflect the conduct of the tenants during the relevant period.
19. The tribunal considers the respondent is not a professional landlord, was based abroad and had engaged the assistance of Cubix to help him with the management of the flat. However, the tribunal finds the respondent was aware of the licensing requirements but chose to ignore them in order to manage his finances for his own advantage and finds this is an aggravating feature.
20. The tribunal also finds from the signed Tenancy Agreement that they acknowledged receipt of a copy of the DCLG booklet 'How to Rent' although the individual gas, electrical or EPC was not provided at the time of the letting. The tribunal also finds the respondent has no previous criminal convictions relating to or similar to this offence and that the disrepair complained of by the applicants was not substantial. The respondent only put forward limited evidence of his financial circumstances which the tribunal took into account.
21. In all the circumstances, the tribunal determines that the offence committed by the respondent, although serious, is not of the highest level of severity and considers that a RRO in the amount of 65% of the rent claimed i.e. £19,981.80 is appropriate. Further, the tribunal makes an order requiring the respondent to reimburse the applicants with £330 for the application and hearing fee paid by them to the tribunal. The tribunal directs that the sums of £19,981.80 and £330 are to be paid within 21 days of the date of this decision being sent to the parties.

**Name: Judge Tagliavini**

**Date: 20 June 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).