



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

Case reference : **HAV/21UF/HMF/2025/0601**

Property : **2 Priory Villas, Mountfield Road, Lewes,
East Sussex, BN7 2UJ**

Applicant : **Josie Chivers
Holly Bacon
Ruby Anne Newman
Lauren Rene McCalla
Elysia Louise Scott
Emily Lucy Mustchin**

Representative : **Josie Chivers**

Respondent : **Angela Gail Brooks**

Representative : **None**

Type of application : **Application for a Rent Repayment Order
under Sections 40, 41(1) and 41(2) of the
Housing and Planning Act 2016.**

**Tribunal
member(s)** : **R Waterhouse FRICS (Chair)
M J F Donaldson FRICS
S Mason FRICS**

Venue : **FTT (Property Chamber) Residential
Property, Havant Justice Centre,
Elmleigh Road, Havant, Portsmouth**

Date of Decision : **8 July 2025**

DECISION

1. The Tribunal finds that the subject property had a valid licence that ran from 17 August 2022 to 16 August 2027 and as a consequence the tribunal finds that the offence of controlling an unlicensed HMO has not been committed and so no Rent Repayment Order has been made.

Background

2. The property, 2 Priory Villas, is a six-bedroom house on four floors, with tenants sharing a bathroom, kitchen and living facilities. It is therefore a “House in Multiple Occupation” within the meaning of Section 54 of the Housing Act 2004.
3. The Applicant tenants (listed above) made an application to the Tribunal on 3 September 2024, for a Rent Repayment Order. It was alleged that during a 12-month period from 5 September 2022 to 4 September 2023 the house did not have an HMO licence.
4. It was asserted that the previous HMO licence expired on 16 August 2022, before the Applicants moved in, and the property remained unlicensed until an application was duly made on 4 September 2023 for a new licence. (see paragraph 16 below)

Preliminary issue

5. The hearing was conducted through the Tribunal’s remote video platform. Present were the Applicant Josie Chivers, and an independent observer Miles Covers. The Respondent was not present. With the absence of the Respondent, the Tribunal had recourse to the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, specifically Rule 34.
6. Rule 34 addresses the situation where a party is absent. The Tribunal records show that the Respondent had been contacted by the clerk by telephone and email and agreed on the method of communication and an e mail address was provided. The records show that the clerk sent notification of the hearing to the Respondent by that email address and that no bounce back occurred.
7. The directions of the 30 May 2025 are clear on the sequence of prehearing documentary exchanges. That is the Applicant to send their case to the Respondent by 6 June 2025. The Respondent to send their documents to the Applicant by 27 June 2025, with the Applicants having the opportunity to make a brief reply by the 30 June 2025. The hearing was set down for the 8 July 2025.
8. The Applicant, at [79], says in an email dated 4 June 2025 to the Respondent, that they were uncertain as to the date of their response to the Respondent. Notwithstanding the uncertainty expressed no issues were raised with the Tribunal and the Applicant complied with the Directions of 30 May 2025.
9. The Tribunal at the hearing was in receipt of a Bundle complied with by the Applicant.
10. In the circumstances the Tribunal determined that it was in the interests of justice to continue the hearing without the Respondent being present.

Submissions

11. The Applicant stated in their submission that a licence had been in place from 17 August 2017 to 16 August 2022. By e mail from the Local Authority, it was shown that the Respondent submitted an application on 13 January 2023. The Applicant therefore submitted that the property was without a licence between 5 September 2022 (the start of their tenancy) to the date of the application, 13 January 2023. (see paragraph 16 below)
12. The Local Authority considered the application and granted a new licence that runs from the day after the previous licence expired. The new licence covers the period 17 August 2022 to 16 August 2027.
13. The Applicant concluded by asserting that for around 15 months the property did not have a valid licence.

Decision

14. The Tribunal retired to consider the initial question of whether an offence had occurred and then gave an oral decision.
15. The Applicant stated the property had been without a licence for around 15 months. The tenancy started on 5 September 2022 and ran to 4 September 2023. In the context of a potential offence occurring during the currency of the tenancy the offence if it were to have occurred could only have occurred from the commencement of the tenancy 5 September 2022 to the date of application by the Respondent to the Local Authority for a new licence that is 13 September 2023.
16. The Tribunal notes that there are inconsistencies within documentation. The email from the Local Authority [71] dated 6 February 2024 states the application was received on 4 September 2023. The e mail provided by the Applicant dated 3 July stated that the application was received on 13 January 2023.
17. The Local Authority, as documented in the Bundle, however issued two licences . The first from 17 August 2017 to 16 August 2022 and a second from 17 August 2022 to 16 August 2027.
18. The Tribunal considered that the Local Authority could have chosen to issue a licence at a date that was not immediately consecutive to the expiry of the previous licence, but did not. Nothing turns therefore on the date of the application for the licence made by the Respondent.
19. The Tribunal is conscious that it is for the Applicant to prove that an offence occurred and that the threshold of proof is that of criminal proceedings.

20. The Tribunal determined that the Applicant has not proven that an offence has occurred, and so the Tribunal is not required to consider a Rent Repayment Order.
21. The Tribunal delivered its decision orally to the hearing, and the Tribunal was concluded.

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).

