



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

**Case Reference** : **LON/00AS/HMF/2025/0630**

**HMCTS Code** : **In- person hearing**

**Property** **Flat 5 Salt Hill Close,  
Uxbridge Middlesex UB8 1PZ**

**Applicants** : **Katherine Gilbert  
Annabelle White**

**Represented by** **Litigants appeared in person**

**Respondent** : **Odirich Limited represented by Kosi  
Odiokpu**

**Represented by** **The Respondent did not appear and  
was not otherwise represented**

**Type of Application** : **Application for Rent Repayment  
Orders by tenants under Sections 40,  
41, 43 & 44 of the Housing and  
Planning Act 2016**

**Tribunal Members** : **Judge Daley  
Ms S Coughlin – Professional Member**

**Date of Hearing** : **04 August 2025**

**Date of Decision** :

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**DECISION**

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## Decision

- I. The Tribunal is not satisfied on the evidence before it that the offence of control or management of an unlicensed HMO was committed.
- II. The Tribunal was unable to satisfy itself to the required standard of proof, which is proof beyond a reasonable doubt.
- III. Accordingly, no grounds exist to make a rent repayment order against the Respondent and the application is dismissed.
- IV. The Tribunal makes no order for the reimbursement of the application fee in the sum of £100.00 and the hearing fee in the sum of £200.00.

## Introduction

1. This is an application by the Applicants listed above for a Rent repayment Order under section 41 of the Housing & Planning Act 2016 (“The 2016 Act”). Section 41 of the 2016 Act allows tenants or the local authority to apply to the First-tier Tribunal for a rent repayment order against a landlord who has committed an offence to which the act applies.
2. The Application was made on the grounds that the Landlord had control and management of an unlicensed House in Multiple Occupation, that was subject to The Housing Act 2004 which introduced the licensing of Housing in Multiple Occupation (“HMOs”).
3. The application stated that at the relevant time that the Applicants were in occupation the property was an unlicensed HMO of which the respondent has control. The Applicants in their application set out that “...*When we lived there, six people of five households lived in the property and the respondent was each of our immediate landlord. The most recent register of HMO licenses in Hillingdon does not include the property. This register was released in September 2024, and the respondent has let the property as an HMO since the beginning of the year.*”
4. The premises, if occupied by number of tenants set out by the applicants came within the definition of Section 254 (2) of The Housing Act 2004. The Applicants provided evidence that the premises was not in the register of HMO licenses for Hillingdon.
5. The Applicants’ claim was for repayment of their rent in the total sum of £2850.00 for the period of 10 August – October 2024.
6. In the application, the Tribunal was provided with the following information concerning the premises that was the subject of this application. The Premises is a five-bedroom house with a shared kitchen bathroom/Wc and Livingroom.
7. The Tribunal issued Directions on 20 February 2025, which provided for this matter to be listed for an in- person hearing, the parties were subsequently notified that the hearing would take place on 4 August 2025 at 10.00 am.

8. The Directions provided that “...By **3<sup>rd</sup> April 2025** the **Applicants** must email to the Respondent and email to the Tribunal ... a bundle of all relevant documents for use in the determination of the application comprised in a single document in Adobe PDF format. The bundle must have an index and must be numbered chronologically page by page. The documents must, so far as possible, be in chronological order...The bundle must include:
- the application and accompanying documents
  - these and any subsequent directions
  - an expanded statement of the reasons for the application
  - full details of the alleged offence, with supporting documents from the local housing authority, if available (**Note:** the Tribunal will need to be satisfied **beyond reasonable doubt** that an offence has been committed)
  - a copy of the tenancy agreement
  - official Land Registry copies of the freehold title and any leasehold title to the property
  - evidence of rent payments made for the applicable period (see Annex)
  - a calculation, on a weekly/monthly basis, of the amount of rent paid in the applicable period. A calculation must also be provided for any universal credit/housing benefit paid during the period
  - any witness statements of facts relied upon...”
9. The Tribunal noted that the Applicants sent a copy of a Skeleton Argument, together with a copy of the printout of the London Borough of Hillington HMO register and copies of WhatsApp communication between the Applicant whilst tenants, and their landlord, the respondent.
10. Although these were received shortly after the hearing, and prior to the Tribunal making its decision, the documents were considered, and it was decided that The Tribunal could make its decision without needing to delay its determination, by seeking a response from the respondent.

## **The Hearing**

11. The hearing of this matter was held at the Property Tribunal 10 Alfred Place London; the applicants attended and represented themselves, the respondent did not attend and was not represented.
12. At the hearing the Tribunal identified the following issues-:

- Whether the property known as 5 Salt Hill Close, Uxbridge Middlesex UB8 1 PZ was during the periods August –October 2025 a house in multiple occupation.
- Whether the House was unlicensed
- Whether the Applicants paid the Respondent rent.

### **Preliminary Matters**

13. At the hearing the Tribunal noted that the Applicants had not seen responses sent by the Respondent to the application. Accordingly, it granted a short adjournment for the documents to be copied and for the Applicants to be provided with an opportunity to consider the documents.

### **14. Relevant Law**

Section 41(1) of the Housing and Planning Act 2016 (the 2016 Act) provides:

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.

Section 40(5) of the 2016 Act lists 7 categories of offence and offence no 5 refers to Control or management of an unlicensed HMO.

The First-tier Tribunal may make a rent repayment order under Section 43 of the 2016 Act or if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether the landlord has been convicted).

Section 44 of the 2016 Act sets out the amount of order:

(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. Under Section 44(4) the Tribunal in determining the amount the tribunal must, in particular take account of (a) the conduct of the landlord and 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 Licensing of Houses in Multiple Occupation Order (Prescribed Description)  
Section 4 of the 2018 Order states that:

16. “An HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act if it—

17. (a) is occupied by five or more persons living in two or more households;

18. The subject property met the conditions to be licensed under this Order because of it was occupied by five or more persons from more than two separate households and the property met the standard test under s.254 of the Housing Act 2004.)

### **The Applicants' Submissions**

19. The Tribunal heard from the Applicants who set out that the property was occupied by at least four other persons throughout the time of their tenancy. However, they had no information concerning the names, or details of the other occupants.
20. It was unfortunate that the Applicants had not provided a bundle in compliance with the directions, and that there was no evidence such as emails/WhatsApp's from any of the other occupants. The Applicants did not seek to support their application by any witness statements from any other occupants
21. There was also a lack of information from the Local housing authority.
22. The Tribunal did consider the Skeleton Argument, which although setting out information about the condition of the premises, did not provide any further evidence.

### **The Respondent's Submissions**

23. Although the Respondent was not represented at the hearing, the respondent's representative Mr Kosichukwu Odiokpu in two emails one dated 2 December 2024, and the other dated 14 May 2025 sent to the Tribunal ( but not copied to the Applicants), accepted that the premises was not licensed but denied the allegation that it was operating as a house in multiple occupation.
24. In the email of 14 May 2025, the respondent representative stated - *"...In early 2024, I leased the property at 5 Salt Hill Close with the intention of using it for a supported accommodation business. Unfortunately, I was unable to secure any clients under that model. As I was still responsible for the lease and associated costs, I decided to rent out rooms on a short-term basis to cover expenses until the break clause in the lease, which was set for December 2024, at which point I returned the property to the landlord.*
25. *During this interim period, the property was rented to a maximum of four individuals at any given time, including the former tenant and her partner, who resided there for a period of three months. At no point did the occupancy exceed this number, and I was careful to remain within the Uxbridge Council's guidelines for non-HMO properties. The claim that I housed more tenants than permitted is false..."*
26. The Tribunal explained to the Applicants that it was required to reach its decision on what was referred to as the criminal standard of proof, rather than the civil standard, which meant that the Tribunal needed to satisfy itself of the cogency of the evidence before it.

## **Tribunal Decision**

27. The Tribunal then applied a four-stage test, it decided that to make an order it would have to satisfy itself of 4 matters –
- (i) Whether the Tribunal was satisfied beyond reasonable doubt that the Respondent had committed an offence under section 72(1) of the Housing Act 2004
  - (ii) Whether the Applicants were entitled to apply to the Tribunal for a rent repayment order.
  - (iii) Whether the Tribunal should exercise its discretion to make a rent repayment order.
  - (iv) And if so the amount of any order.
28. The Tribunal in reaching its decision noted that it had to be satisfied on the first test before it was required to consider the other matters.
29. The Tribunal noted that it had two competing, and different accounts of the applicants' occupation of the premises. However, it was for the applicants who had brought the case to discharge the evidential burden.
30. The Tribunal noted that there was an absence of any evidence to disprove the respondent's assertions that the premises was not let to more than 4 people including the applicants, there were no details of who the other occupants were, or correspondence or other supporting evidence. Accordingly, the Tribunal could not be satisfied to the required standard that the premises was an HMO that required a license.
31. As the Tribunal was unable to satisfy itself the premises was an HMO to the required standard, the Tribunal did not find it necessary to consider any of the other tests set out in the four-stage test referred to above.
32. Accordingly, the application for a rent repayment order fails, and the application is dismissed.
33. As the Application is dismissed no order for reimbursement of the application and hearing fees.

### **Order**

- (i) Application is dismissed

Signed: Judge Daley

Dated: 4 August 2025

## **Right to Appeal**

34. 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.

35. 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.
36. 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.
37. 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.