



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

Case Reference : LON/00AN/HMG/2025/0607

Property : Flat 3, 38 Shepherds Bush Road,
London W6 7PJ

Applicant : Daniil Dominyk Griбанov

Representative : Justice for Tenants

Respondents : (1) Less Stress Properties Ltd
(2) AAA Biney Traffic Management Ltd

Type of Application : Application for a rent repayment order
by tenant

Tribunal : Judge Nicol
Mr A Fonka FCIEH

**Date and Venue of
Hearing** : 29th August 2025;
10 Alfred Place, London WC1E 7LR

Date of Decision : 29th August 2025

DECISION

- 1. The claim against the Second Respondent is dismissed.**
- 2. The First Respondent shall pay to the Applicant a Rent Repayment Orders in the sum of £2,537.25.**
- 3. The First Respondent shall also reimburse the Applicant his Tribunal fees totalling £337.**

Relevant legislation is set out in the Appendix to this decision.

Reasons

1. The Applicant resided at Flat 3, 38 Shepherds Bush Road, London W6 7PJ, a studio flat, between 21st December 2023 and 18th June 2024.

2. The First Respondent is named as the landlord in the Applicant's tenancy agreement and the Second Respondent is the leasehold owner of the property.
3. The Applicant seeks a rent repayment order ("RROs") against the Respondents in accordance with the Housing and Planning Act 2016 ("the 2016 Act").
4. The Tribunal issued directions on 19th March 2025. There was a face-to-face hearing of the application at the Tribunal on 29th August 2025. The attendees were the Applicant and his representative, Ms Fleur Donnelly-Jackson of Justice for Tenants.
5. The documents available to the Tribunal consisted of a bundle of 97 pages from the Applicant. On 26th August 2025 the Applicant's representative applied to admit new documentary evidence. The Tribunal could not see how the new documents added to the case and, given how late in the proceedings they were produced, refused permission to rely on them.

Proceed in absence

6. Neither Respondent appeared or was represented at the hearing and so the Tribunal had to decide whether to proceed in their absence. Under rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal may proceed with the hearing in their absence if satisfied that they had sufficient notice of the hearing and it is in the interests of justice to proceed.
7. By email dated 27th August 2025, Mr Phillip Thomas, who is a director of both Respondent companies, stated,

Here is my bankruptcy insolvency number, I will not be attending court, feel free to show this email to the judge.

8. Clearly, both Respondents are aware of the hearing but do not intend to attend. There is no evidence that either company is insolvent, as opposed to their director being bankrupt. There would be no point in adjourning as they are not likely to attend any adjourned hearing. Also, adjournment would involve delay for both the Tribunal and the Applicant to no purpose. Therefore, the Tribunal decided it was in the interests of justice to proceed.

The offence

9. The Tribunal may make a rent repayment order when the landlord has committed one or more of a number of offences listed in section 40(3) of the 2016 Act. The Applicant has listed two Respondents but only one of them can be the landlord. The First Respondent, Less Stress Properties Ltd, is named alone on the Applicant's tenancy agreement and rent was paid to a rent collection agency, Propertyloop, acting as agent for them. Therefore, the Tribunal is satisfied that it is the landlord.

10. The Applicant alleged that both Respondents were guilty of having control of or managing a house which is required to be licensed but is not so licensed, contrary to section 95(1) of the Housing Act 2004 (“the 2004 Act”). Superior landlords and landlords’ agents are capable of committing this offence, as well as immediate landlords, but RROs may only be made against the landlord. The Second Respondent, AAA Biney Traffic Management Ltd, is the leasehold owner of the property but they were not the Applicant’s landlord.
11. For these reasons, the claim against the Second Respondent is dismissed and the Tribunal has gone on to consider the case against the First Respondent only.
12. The property is situated within a selective licensing area, designated by the London Borough of Hammersmith and Fulham, which came into force on 5th June 2022 and will cease to have effect on 4th June 2027. No application was made for a selective licence until 25th March 2024.
13. Therefore, the Tribunal is satisfied so that it is sure that the First Respondent committed the offence of managing and/or having control of the property when it was let despite not being licensed. There is nothing in the material to suggest that it might have had a reasonable excuse.

Rent Repayment Order

14. For the above reasons, the Tribunal is satisfied that it has the power under section 43(1) of the Housing and Planning Act 2016 to make Rent Repayment Orders on this application. The Tribunal has a discretion not to exercise that power. However, as confirmed in *LB Newham v Harris* [2017] UKUT 264 (LC), it will be a very rare case where the Tribunal does so. This is not one of those very rare cases. The Tribunal cannot see any grounds for exercising their discretion not to make a RRO.
15. The RRO provisions have been considered by the Upper Tribunal (Lands Chamber) in a number of cases and it is necessary to look at the guidance they gave there. In *Parker v Waller* [2012] UKUT 301 (LC), amongst other matters, it was held that an RRO is a penal sum, not compensation. The law has changed since *Parker v Waller* and was considered in *Vadamalayan v Stewart* [2020] UKUT 0183 (LC) where Judge Cooke said:
 53. The provisions of the 2016 Act are rather more hard-edged than those of the 2004 Act. There is no longer a requirement of reasonableness and therefore, I suggest, less scope for the balancing of factors that was envisaged in *Parker v Waller*. The landlord has to repay the rent, subject to considerations of conduct and his financial circumstances. ...
16. In *Williams v Parmar* [2021] UKUT 0244 (LC) Fancourt J held that there was no presumption in favour of awarding the maximum amount of an RRO and said in his judgment:

43. ... “Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for Local Authorities”, which came into force on 6 April 2017 ... is guidance as to whether a local housing authority should exercise its power to apply for an RRO, not guidance on the approach to the amount of RROs. Nevertheless, para 3.2 of that guidance identifies the factors that a local authority should take into account in deciding whether to seek an RRO as being the need to: punish offending landlords; deter the particular landlord from further offences; dissuade other landlords from breaching the law; and remove from landlords the financial benefit of offending.
 50. I reject the argument ... that the right approach is for a tribunal simply to consider what amount is reasonable in any given case. A tribunal should address specifically what proportion of the maximum amount of rent paid in the relevant period, or reduction from that amount, or a combination of both, is appropriate in all the circumstances, bearing in mind the purpose of the legislative provisions. A tribunal must have particular regard to the conduct of both parties (which includes the seriousness of the offence committed), the financial circumstances of the landlord and whether the landlord has at any time been convicted of a relevant offence. The tribunal should also take into account any other factors that appear to be relevant.
17. In *Acheampong v Roman* [2022] UKUT 239 (LC) the Upper Tribunal sought to provide guidance on how to calculate the RRO:
20. The following approach will ensure consistency with the authorities:
 - 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 will be able to make an informed estimate.
 - 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 figure 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).

18. The Applicant seeks £2,819.17 for the rent paid for the period between the commencement of the tenancy on 18th December 2023 and the licence application made on 24th March 2024.
19. The Applicant was liable to pay for the utilities, so there is no issue about whether any deductions should be made in relation to them.
20. The next step is to consider the seriousness of the offence relative both to the other offences for which RROs may be made and to other cases where the same offence was committed. In *Daff v Gyalui* [2023] UKUT 134 (LC) the Tribunal sought to rank the housing offences listed in section 40(3) of the 2016 Act by the maximum sanctions for each and general assertions, without reference to any further criteria or any evidence, as to how serious each offence is. The conclusion was that licensing offences were generally lesser than the use of violence for securing entry or eviction or harassment, although circumstances may vary significantly in individual cases.
21. It is important to understand why a failure to licence is serious, even if it may be thought lower in a hierarchy of some criminal offences. The process of licensing effectively provides an audit of the safety and condition of the property and of the landlord's management arrangements, supported wherever and whenever possible by detailed inspections by council officers who are expert in such matters. Owners and occupiers are not normally expert and can't be expected to know how to identify or remedy relevant issues without expert help. It is not uncommon that landlords are surprised at how much a local authority requires them to do to bring a property up to the required standard and, in particular, object to matters being raised about which the occupiers have not complained.
22. If a landlord does not apply for a licence, the audit process never happens. As a result, the landlord can save significant sums of money by not incurring various costs which may cover, amongst other matters:
 - (a) Consultants – surveyor, architect, building control, planning
 - (b) Licensing fees
 - (c) Fire risk assessment
 - (d) Smoke or heat alarm installation
 - (e) Works for repair or modification
 - (f) Increased insurance premiums
 - (g) Increased lending costs
 - (h) Increased lettings and management costs.
23. The prospect of such savings is a powerful incentive not to get licensed. Not getting licensed means that important health and safety requirements may get missed, to the possible serious detriment of any occupiers. RROs must be set at a level which disincentivises the

avoidance of licensing and disabuses landlords of the idea that it would save money.

24. Further, under section 44(4) of the 2016 Act, in determining the amount of the RRO the Tribunal must, in particular, take into account the conduct of the respective parties, the financial circumstances of the landlord, and whether the landlord has at any time been convicted of any of the relevant offences. The Respondents did not provide any information about their financial circumstances and there is no suggestion they have any previous convictions.
25. The Applicant complained about the First Respondent's conduct in a number of respects:
 - (a) Although the agreement put the tenancy start date as 18th December 2023, the Applicant was not allowed into the property or given the keys until 21st December 2023, 3 days later. No explanation was provided.
 - (b) On the commencement of the tenancy the property was missing a washing machine and other kitchen equipment which had been promised. A washing machine was eventually provided but never installed.
 - (c) A pipe meant to feed to the washing machine leaked, leaving standing water and eventually causing the boiler to break down, leaving the Applicant without heating or hot water for nearly 2 months.
 - (d) When the local council asked the First Respondent to provide evidence the boiler had been fixed, they were sent an invoice relating to work in a different flat in the same building.
 - (e) The aforementioned Mr Thomas, while acting on behalf of the First Respondent, made racial remarks directed at the Applicant, alleging that he was only making complaints because Mr Thomas was black and calling the Applicant "little Hitler", which the Applicant later reported to the police.
26. In *Newell v Abbott* the Upper Tribunal reviewed the amount given in previous RROs and stated at paragraph 57:

Factors which have tended to result in higher penalties include that the offence was committed deliberately, or by a commercial landlord or an individual with a larger property portfolio, or where tenants have been exposed to poor or dangerous conditions which have been prolonged by the failure to licence. Factors tending to justify lower penalties include inadvertence on the part of a smaller landlord, property in good condition such that a licence would have been granted without additional work being required, and mitigating factors which go some way to explaining the offence, without excusing it, such as the failure of a letting agent to warn of the need for a licence, or personal incapacity due to poor health.

27. Taking into account all the circumstances, the Tribunal concluded that this was a serious default which warrants a proportionate sanction.

28. In the light of the above matters, the Tribunal has concluded that the RROs should be set at 90% of the maximum amount, namely £2,537.25.
29. The Applicant also sought reimbursement of the Tribunal fees: a £110 application fee and a £227 hearing fee. The Applicant has been successful in his application and had to take proceedings to achieve this outcome. Therefore, it is appropriate that the First Respondent reimburses the fees.

Name: Judge Nicol

Date: 29th August 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).

Appendix of relevant legislation

Housing Act 2004

Section 95 Offences in relation to licensing of houses under this Part

- (1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.
- (2) A person commits an offence if—
 - (a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 90(6), and
 - (b) he fails to comply with any condition of the licence.
- (3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—
 - (a) a notification had been duly given in respect of the house under section 62(1) or 86(1), or
 - (b) an application for a licence had been duly made in respect of the house under section 87,and that notification or application was still effective (see subsection (7)).
- (4) In proceedings against a person for an offence under subsection (1) or (2) it is a defence that he had a reasonable excuse—
 - (a) for having control of or managing the house in the circumstances mentioned in subsection (1), or
 - (b) for failing to comply with the condition,as the case may be.
- (5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine.
- (6) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).
- (6B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.
- (7) For the purposes of subsection (3) a notification or application is “effective” at a particular time if at that time it has not been withdrawn, and either—
 - (a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or
 - (b) if they have decided not to do so, one of the conditions set out in subsection (8) is met.
- (8) The conditions are—
 - (a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of the appropriate tribunal) has not expired, or

- (b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.
- (9) In subsection (8) "*relevant decision*" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Housing and Planning Act 2016

Chapter 4 RENT REPAYMENT ORDERS

Section 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.

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

Section 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.

Section 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).

Section 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.

If the order is made on the ground the amount must relate to rent that the landlord has committed paid by the tenant in respect of

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
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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
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- (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.