



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

Case Reference : MAN/36UD/HMC/2024/0004

Property : 11 Bond End, Knaresborough, North Yorkshire,
HG5 9AW

Applicants : Ian Threlfall and Eleanor Gibbs

Respondent : Shona Bostwick

Representative : Richard Pickering of Counsel

Type of Application : Application for Rent Repayment Order by tenant
Sections 40,41,43 and 44 Housing and Planning Act 2016

Tribunal Members : Judge T N Jackson
Ms J Jacobs MRICS

**Date and venue of
Hearing** : 18 June 2025
Harrogate Justice Centre

Date of Decision : 26 August 2025

CORRECTED DECISION

Decision

The Tribunal is satisfied beyond a reasonable doubt that the Respondent committed an offence under section 30(1) Housing Act 2004 without reasonable excuse.

The Tribunal makes a Rent Repayment Order against the Respondent in the sum of £486, to be paid to the Applicants within 28 days of the date of this Decision.

The Tribunal determines that the Respondent shall pay the Applicants an additional £300 as reimbursement of the application and hearing fees within 28 days of the date of this Decision.

Reasons for decision

Introduction

1. On 17 May 2024, the Applicants applied for a Rent Repayment Order stating that the Respondent had failed to comply with an Improvement Notice. The Applicants sought a Rent Repayment Order in the amount of £1620 which reflected 12 months' rent (£9600) minus Universal Credit Payments (£7980). They also sought reimbursement of the application and hearing fees of £100 and £200 respectively.
2. Directions were issued on 13 February 2025 regarding case management. Both parties provided bundles for the hearing.
3. Further Directions were issued at the hearing on 18 June 2025, to allow the Respondent to submit evidence of a medical condition which, it was asserted at the hearing, was relevant to the defence of 'reasonable excuse'. The Applicants responded to the evidence submitted by the Applicant

Background

4. The Property was let to the Applicants by the Respondent under an assured shorthold tenancy agreement dated 20 August 2019 for 36 months and thereafter from month to month until terminated by either party with a start date of 28 August 2019 at a rent of £800 per calendar month to be paid in advance. The Applicants were to pay utility bills and council tax.
5. On 7 March 2022, an officer from North Yorkshire County Council served an Improvement Notice dated the same date on the Respondent. Schedule 1 of the Improvement Notice set out two Category 1 Hazards namely Damp and Mould and Excess Cold and three Category 2 Hazards namely Falls (between levels), Fire, and Structural Collapse. Schedule 2 of the Improvement Notice specified detailed remedial action in relation to each of the Category 1 and Category 2 Hazards.
6. The Improvement Notice had a compliance date of 4 June 2022 which was subsequently extended, at the Respondent's request, by Variation Notice dated 10 August 2022 to 10 September 2022 due to the Respondent's difficulties obtaining a joiner.

7. Following an inspection on 26 November 2024, the Council officer determined that whilst items 6,8,10,12 and 13 in Schedule 2 had been complied with, items 1-5,7,9,11, and 14-17 in Schedule 2 remained outstanding or required further clarification to determine if the item had been complied with.
8. Deficiencies giving rise to the Hazards set out in Schedule 1 and which were alleged not to have been complied with are set out below:

Category 1 Hazard
Damp and Mould

Item 1

There is damp along the full length from the front to the back of the inner wall of the living room. The damp proof meter measured in the red zone along the full length.

Item 2

There is damp on the right- hand side of the chimney breast in the living room.

Item 3

The internal wall between the kitchen and dining area has evidence of damp patches on the lower section of the wall.

Item 4

The rear bedroom displayed damp patches on the lower levels of the wall below the window.

Item 5

A section of bare plaster in the living room was crumbling away from the wall, where the wall coverings had come away.

Item 7

The external wall to the LHS of the guttering had render missing from the brickwork.

Category 1 Hazard
Excess Cold

Item 9

The external door in the kitchen has gaps between the door and frame allowing uncontrollable draughts. The lower part of the door sat proud of the frame. The seals on the door were defective.

Category 2 Hazard
Falls (between levels)

Item 11

The window in the master bedroom is at a low level below 1100mm and does not have a safety catch or window restrictors to limit the opening. The window is at first floor level at the front of the property which has a small concrete path on the busy road below.

Category 2 Hazard
Fire

Item 14

The staircase is not enclosed as it is an open spiral which would slow down means of escape and increase the speed of a fire spreading.

Item 15

All rooms within the property are inner rooms, with escaped via the kitchen only.

Item 16

Downstairs in his open plan, with no internal door separating the kitchen from lounge stroke diner, which increases the ability of a fire to spread quickly.

Category 2 Hazard
Structural collapse

Item 17

The back bedroom had cracks in the wall either side of the window. The (sic) appeared to originate from the ceiling.

9. Remedial action required under Schedule 2:

Items 1-5

'Obtain a specialist report in connection with the damp throughout the whole property, and undertake all works specified. Works to be carried out by specialist firm prepared to give a minimum 20 years 70. A copy of the report, estimate, conditions and guarantee are to be submitted before the work proceeds. Once works have been completed, make good all areas affected and decorate to match adjacent areas'.

Item 7

'Hack off unkeyed and/or perished rendering and stucco to the wall. Key brickwork, prepare and re render to match existing flush with adjacent services. Leave sound and weather proof upon completion.'

Item 9

'Cut out rotten or otherwise defective external door threshold door is necessary. Ensure that the door and frame are left in a solid, secure, wind and rain proof condition.'

Item 11

'Provide and fix window restrictors to the window in the front bedroom. The restrictor must be able to be disengaged without the use of a key and when in place, prevent the window from opening wider than 10 centimetres. Test and leave in proper working order on completion'.

Items 14 to 16

'A grade D fire alarm system consisting of mains powered smoke (and heat where necessary) alarms with integral battery standby supply. These are

designed to operate in the event of mains failure and therefore could be connected to the local lighting circuit rather than an independent circuit rather than an independent circuit(sic) at the dwellings main distribution board. They should be interlinked heat alarms with integral battery backup and be located in the kitchen with additional interlinked smoke alarm with integral batter (sic) backup located in the lounge; bedrooms1 and 2 and upstairs hall.'

Item 17

'Undertake invasive investigations and have the cracks assessed by a suitably qualified structural engineer and undertake all works specified. A copy of the report, estimate, conditions and guarantee are to be submitted before the work proceeds. Once works have been completed, make good all areas affected and decorate to match adjacent areas.'

10. On 28 October 2022, the Applicants applied for a Rent Repayment Order for the Respondent's failure to comply with the same Improvement Notice by the extended compliance date of 10 September 2022 (MAN/36UD/HMC/2022/0001). On 7 September 2023, at the hearing, the Respondent did not offer any defence or resistance to the application and confirmed that i) there had been non - compliance with the Improvement Notice by the date of compliance and ii) it had still not been fully complied with as at the date of the hearing. By Consent Order, the Respondent agreed to pay the agreed maximum sum of £213.03 (to reflect 48 days from the date of non- compliance of 11 September 2022 to the date of the Tribunal application) and to refund the application and hearing fees of £100 and £200 respectively.

Inspection

11. The Tribunal inspected the Property on 18 June 2025 in the presence of Eleanor Gibbs and Ian Threlfall, Applicants; Shona Bostwick, the Respondent; Emma Wade, Private Housing Standards Environmental Health Officer of North Yorkshire County Council; Richard Pickering and Tayyib Akhtar, the Respondent's Counsel and Instructing solicitor respectively, and Richard Dutton, the Respondent's friend.
12. The Property is a two bedroomed linked mid terraced house built circa 1700 constructed of brick which is rendered, with a clay tile roof, rendered chimney, PVC guttering, timber single glazed windows with secondary glazing and solid ground floors. The Property is a listed building.
13. The Tribunal inspected the items detailed in the Improvement Notice dated 7 March 2022 and more particularly the items which it was claimed had not been completed by 10 September 2022. At the inspection, it was accepted by the parties and the Council officer that works had been carried out in 2025 and we noted those works.
14. Following the inspection, and after discussion with his client, Counsel for the Respondent advised that the Respondent had agreed to replace the kitchen door as, despite works having being carried, it still stood proud of the frame.

Hearing

15. A hearing was held at Harrogate Justice Centre. All present at the inspection attended the hearing plus Merryl Castle, the Respondent's sister. The Applicants, the Respondent and Emma Wade gave oral evidence. Part way through the hearing, it became apparent

to the Tribunal that the Respondent was having difficulty hearing the proceedings due to hearing impairment. The Respondent did not want any alternative arrangements made. We proceeded with her solicitor, who sat immediately in front of her, relaying what was being said and repeating to her, when necessary, the Tribunal's questions of her.

16. The Respondent's witness statement was sparse, was signed by her solicitor rather than the Respondent and did not refer to medical information which the Respondent introduced in oral evidence. The Tribunal issued Directions at the hearing to allow the Respondent the opportunity to provide written evidence of her medical condition, as it was relevant to the defence of reasonable excuse. The Directions gave the Applicants the opportunity to provide written comments on any documentation submitted by the Respondent. Both parties responded to the Directions and we had regard to them in making our determination.

The Law

17. Section 41 of the Housing and Planning Act 2016 ("the 2016 Act"), provides that a tenant may apply to the Tribunal for a Rent Repayment Order against a landlord who has committed an offence to which the 2016 Act applies.
18. The 2016 Act applies to an offence committed under section 30(1) Housing Act 2004 ("the 2004 Act"), namely failure to comply with an Improvement Notice. Section 43 provides that the Tribunal may make a Rent Repayment Order if satisfied, beyond a reasonable doubt, that the landlord has committed an offence to which the 2016 Act applies (whether or not the landlord has been convicted).
19. Section 44 of the 2016 Act provides for how the Rent Repayment Order is to be calculated. For an offence under section 30(1) Housing Act 2004, the period to which a Rent Repayment Order relates is a period, not exceeding 12 months, during which the landlord was committing the offence. The rent the landlord may be required to pay in respect of that period must not exceed the rent paid in respect of that period, less any relevant award of Universal Credit paid in respect of rent under the tenancy during that period.
20. Section 44(4) of the 2016 Act states that in determining the amount of a Rent Repayment Order, we should take account of the following factors:
 - 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 that Chapter of the Act applies.

The Respondent

21. Despite the Tribunal reminding the Respondent's Counsel on several occasions of the application before it, namely an application for a Rent Repayment Order, Counsel appeared to proceed on the basis that it was an appeal against an Improvement Notice and concentrated on the fact that the works had been completed, albeit some of this had been done in early 2025.
22. Counsel submitted that due to challenges in getting contractors to carry out the work within the compliance period, this had affected the Respondent's mental health at the time, which she had not recognised. Once the deterioration in her mental health had

been brought to her attention by her sister and Richard Dutton, she had accepted the deterioration and sought medical advice. Her sister and Richard Dutton had then assisted her by sourcing contractors and dealing with remedial works, although this was after the compliance period had expired.

23. The Respondent referred to a solicitor's letter of 11 October 2024 which stated that all works had been completed. The letter included invoices and emails which demonstrated that works had been carried out as follows:
- a. 20.5.22 Damp report Danford Brewer and Ives following inspection on 27.4.22;
 - b. 30.5.22 Roofing works replacing guttering to front- Knights Roofing;
 - c. 30.7.22 Redecoration works Dan Horner Ltd;
 - d. 30.7.22 Joinery work to windows, lounge wall and front door;
 - e. 9.8.22 Installation of fire and smoke detectors Robinsons Lighting;
 - f. 2.11.22 Disrepair report Progress Consulting;
 - g. 5.11.22 Repairs to Bathroom ceiling CS Damp Proofing Ltd;
 - h. 7.2.23 Repair upstairs sash windows, install key restrictors and draught proof rear door Peter Coates;
 - i. 21.7.24 Full reroof of property A Step Above Roofing and Building;
24. The Respondent referred to a tradesman attending the Property on 4 April 2025 to carry out works to the ceiling and render repair although the tradesman could not undertake the works as the job was too big for him.
25. She referred to a tradesman who was due to attend the Property on 21 April 2025 and a dehumidifier being taken to the Applicants in w/c 21 April 2025.

The Applicants

26. The Applicants say that the works required by the Notice have still not been fully completed. The Property is their family home and they have suffered ongoing disruption and antagonization from the Respondent for more than 3 years which has caused the whole family unnecessary stress and anxiety.
27. The Respondent has already been the subject of a Consent Order following the Tribunal hearing in February 2023 in relation to the same Notice. The Respondent did not appeal the Improvement Notice or refer to medical problems at the time of seeking to vary the Notice in August 2022.
28. The Respondent could have used her letting agent to secure tradespeople to take away the stress from her. The Applicants do not accept the Respondent's medical evidence, as the GP letter is dated November 2022, not September 2022 which was the compliance date and they doubt the severity of the Respondent's medical condition.
29. The Applicants deny all allegations regarding them causing difficulties with access for contractors and refer to them as being defamatory. They refer to evidence they provided to dispute the allegations in the bundles submitted at the 2023 Tribunal hearing but which documents were not included in the bundles for this application.
30. The Applicants dispute the Respondent's financial circumstances stating that as a former headteacher on early retirement 9 years ago, she would have received a generous pension and substantial lump sum and suggest she would have been in receipt of state

pension from July 2024 and therefore should have sufficient funds to cover her living expenses.

Deliberations

31. We considered the applications in four stages –

- a. Whether we were satisfied beyond a reasonable doubt that the Respondent had committed an offence under section 30(1) Housing Act 2004;
- b. Whether the Applicants were entitled to apply to the Tribunal for a Rent Repayment Order;
- c. Whether we should exercise our discretion to make a Rent Repayment Order;
- d. Determination of the amount of any Order

Offence

32. Section 30(1) Housing Act 2004 provides that where an Improvement Notice has become operative, the person on whom the Notice was served commits an offence if they fail to comply with it.
33. The Improvement Notice, as varied on 7 August 2022, required all the remedial action in Schedule 2 to be completed by 10 September 2022.
34. The Respondent's solicitor's letter dated 11 October 2024 clearly demonstrates that whilst some works were carried out by the compliance date of 10 September 2022, other works were carried out after that date.
35. Documentary evidence refers to other works carried out after the compliance date. On 3 July 2023, repair works were carried out to the front and back door but not to a satisfactory standard to the back door; on 16 August 2023 the bathroom ceiling was painted after a partial repair. On 13 September 2023, a further damp inspection was carried out by CS Damp Proofing Ltd restricted to 'areas requested' and the firm carried out subsequent work regarding damp above the front door on 21 February 2024.
36. Further, we accepted the Environmental Health Officer's written and oral evidence of items of non-compliance identified in her email of 21 February 2025 following an inspection on 26 November 2024, which identified that items' 1-5,7,9,11,17 had not been complied with and that she was unclear in relation to items 14-16 as to whether the detectors located in the bedrooms were main wired.
37. On 1 April 2025, there was a letter from the Property Manager to the Applicants to arrange a visit from a contractor on 4 April 2025 to run through outstanding items in the Improvement Notice. We acknowledged the Respondent's admission, in her supplementary witness statement, that works were still being carried out in early 2025.
38. We are therefore satisfied beyond a reasonable doubt that the Respondent failed to comply with the Improvement Notice by 10 September 2022.

Defence

39. Section 30(4) of the 2004 Act provides that it is a defence if the person had a reasonable excuse for failing to comply with the Improvement Notice.

40. The Respondent's evidence was that she had had mental health problems since 2015 arising from work related stress. She had retired in 2015 as a result. She asserts that she intended to comply with the Improvement Notice but was unable to get any workmen to carry out the work. She asserts that whilst she was in denial as to her mental health, her sister, Merryl Castle and friend Richard Dutton recognized that she was suffering from anxiety and depression due to the difficulties and advised her to seek medical advice, which she did. We noted a GP letter dated 24 June 2025 which was very sparse but which confirmed the Respondent's medical condition from November 2022 and detailed the medical input provided, but did not state when such input took place.
41. We note that the GP letter refers to November 2022, which is after the compliance date of 10 September 2022, but accept that with such medical conditions, it takes a while to recognize deterioration and accept the need to seek medical attention. However, whilst we accept that the Respondent was very likely to have been suffering adverse mental health in the run up to the compliance date, we understand that the Respondent had a letting agent at the time to whom she could have delegated the responsibility to manage the arrangements to get the remedial action completed by the compliance date, particularly if, as she alleges, there were difficulties obtaining workmen. As a landlord, she still has to meet her landlord obligations even when ill. We are therefore not satisfied that her medical condition was sufficient to amount to the defence of reasonable excuse (although we have considered it as mitigation later in the decision).
42. The Respondent's supplementary statement submitted after the hearing suggests that the difficulties in obtaining workmen was caused by the Applicants' behaviour towards them and gave details of alleged incidents. The Applicants deny the Respondent's allegations and say that these matters were considered at the Tribunal on 7 September 2023 which resulted in a Consent Order in which the Respondent admitted failure to comply with the Improvement Notice. Whilst we accept that a tenant's behaviour which prevents a landlord from carrying out remedial works can constitute a reasonable excuse, for the reasons set out below, we do not accept that is the case here.
43. It was unhelpful that, despite being legally represented, the Respondent's original witness statement did not make reference to such allegations as a reason why she could not complete the remedial action by the necessary date. Her supplementary statement is also unhelpful on the point, as it contains hearsay and supposition as to why tradesmen were not carrying out the work, rather than providing evidence from the tradesmen concerned as to the alleged incidents. The Applicants strongly deny the allegations and refer to the evidence they provided for the 2023 Tribunal hearing, which has not been included within either parties' bundle for this application.
44. We attached little weight to the witness statement of Richard Dutton provided following the Directions of 18 June 2025. He refers to alleged difficulties in the Respondent obtaining tradespeople, but does not provide any dates as to when this was alleged to have occurred, i.e before or after the remedial action date, nor how he knows this, other than perhaps being told by the Respondent. He refers to statements made by tradesmen to him but there is no evidence as to who they were, when the alleged incident took place, when the statements were made to Richard Dutton nor is there any written statement from a relevant workman to provide such evidence. Further Richard Dutton did not provide an original statement and was therefore not a witness at the hearing.
45. It is unfortunate that the alleged behaviour of the Applicants was not raised prior to the hearing to allow the evidence from both parties and Richard Dutton to be challenged through cross examination and questioning from the Tribunal. We have considered

whether it would be appropriate to defer our determination and list a further hearing on the issue. However, we have had regard to the Respondent's current health and that at the hearing Counsel made it clear that the Respondent wanted an end to the matter and to move on with her life. We had regard to the fact that the Respondent has been legally represented throughout. Her legal representatives had a professional obligation to explore any defence available and to ensure that any relevant evidence was included in the Respondent's original witness statement together with any corroborative evidence. We have already commented that the Respondent's original witness statement was very poor and was not signed by her but by her solicitor. We are also cognizant of the date of the alleged offence, some 2 and a half years ago and that the maximum amount that could be ordered as a Rent Repayment Order in this case is £1620. We therefore determine that it is not proportionate to list the matter for a further hearing to explore the points raised in paragraphs 42 to 44 above.

46. On the basis of the evidence before us, we are not satisfied that either the Respondent's health or the alleged behaviour of the Applicants, which is disputed and on which we make no finding, amount to the defence of 'reasonable excuse'.
47. We are therefore satisfied beyond a reasonable doubt, that the Respondent committed an offence under section 30(1) Housing Act 2004 without reasonable excuse.

Entitlement of the Applicants to apply for a Rent Repayment Order

48. We determine that the Applicants are entitled to apply for a Rent Repayment Order. In accordance with section 41(2), the offence relates to housing that, at the time of the offence, was let to the Applicants and the offence was committed in the period of 12 months ending with the day on which the application to the Tribunal was made. The Applicants have demonstrated by their bank statements that they had paid rent of £800 per month from 1 November 2022 to 2 October 2023. This is confirmed by the Tenant Statement of the Respondent's letting agent which demonstrates rent payments of £800 per month from 1 December 2022 to 3 February 2025.

Discretion to make a Rent Repayment Order

49. Having considered the matter, including in particular the Respondent's witness statements and oral evidence, we were satisfied that there was no ground on which it could be argued that it was not appropriate to make a Rent Repayment Order in the circumstances of this case.

Amount of Rent Repayment Order

50. In accordance with section 44 of the 2016 Act, the amount of an Order must relate to rent paid in a period, not exceeding 12 months during which the landlord was committing the offence under section 30(1) of the Housing Act 2004. The Respondent committed the offence from 11 September 2022, the day after the extended compliance date.
51. Based on the Council officer's email of 21 February 2025, which we accept, specified works had still not been completed by that date. Therefore, the offence was committed between 11 September 2022 to 21 February 2025 as a minimum. We determine that the relevant period is 18 May 2023 to 17 May 2024.

52. The amount that the landlord is required to pay in respect of a period, not exceeding 12 months, must not exceed the rent paid in respect of that period. During the relevant period the Applicants paid £800 per month. In respect of that rent, the Applicants received Universal Credit payments of £665 per month as evidenced by the Universal Credit award notification (page 65 of the bundle). The maximum amount that can be required to be paid is therefore £1620 (12 months x (£800 minus £665)).

Decision

53. In quantifying the Rent Repayment Order, we adopted the approach set out in paragraph 21 of *Acheampong v Roman and others [2022] UKUT 239 (LC)* as endorsed in paragraph 26 of *Dowd v Martins and others [2022] UKUT 249(LC)* namely:

- i. ascertain the whole of the rent for the relevant period;
- ii. 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;
- iii. consider how serious this offence was, 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 the 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.
- iv. 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).

Rent for the relevant period

54. The Tribunal calculates the rent paid by the Applicant over the relevant period of 12 months from 18 May 2023 to 17 May 2024 was £9600. We then deducted the Universal Credit payments over the same period of £7980 leaving a balance of £1620.

Utilities

55. We make no deduction for utilities and council tax as these were paid by the Applicants directly.

The seriousness of the offence

56. Having regard to the criminal penalties that apply, we consider that Section 30(1) offences are generally less serious than other Rent Repayment Order offences as set out in rows 1,2 and 7 in the table in section 40 of the 2016 Act which are punishable by imprisonment rather than a fine and we take that into account. We then considered how serious this particular offence is on the scale of section 30(1) offences and found it to be at the low end.

57. We find that the deficiencies identified in the Improvement Notice were much less serious than others we have seen. We also note that some deficiencies related to Category 2 Hazards where the Council has a discretion as to whether to serve an Improvement Notice rather than a duty, as is the case with Category 1 Hazards.
58. In relation to Items 1-5, the Respondent did obtain a damp report dated 20 May 2022, prior to the compliance date, although for reasons that could not be explained, it only appeared to relate to some parts of the house rather than the whole Property as required by the Improvement Notice. The report recommended that better ventilation or the use of a dehumidifier could help the rear bedroom which had 3 outside walls and the colder surfaces showed signs of condensation mould. The Respondent did not provide a dehumidifier until early 2025. In our opinion as an expert Tribunal, a dehumidifier is likely to be of little assistance as it relies on the tenant to use it which has consequential energy costs. Simply opening a window regularly would provide the necessary ventilation. The damp was moderate and not throughout the whole house.
59. In relation to Item 7, the issue was moderately serious as it could have caused damp in the front bedroom if not addressed. It was subsequently addressed but not within the compliance period.
60. In relation to Item 9, some works had been carried out to the door which would have cut down the draughts to some extent and improved the position, but the works were not a complete fix and the Respondent accepted at the hearing that a new door was required and had agreed to provide one.
61. In relation to item 11, the Respondent had addressed the situation by fitting a lock and key mechanism. In our experience as an expert Tribunal, most occupiers with window locks leave in the key and we consider there is little difference in the action required to turn a thumb turn key as opposed to a standard window key.
62. In relation to Items 14-16, the only outstanding issue was whether or not the detectors in the first- floor rooms were mains powered. The Property is a house occupied by a family rather than an HMO with shared amenities where the risks of fire are higher. The house is small with a ground and first floor only and, we would suggest, the mains powered detectors downstairs would be able to be heard upstairs.
63. In relation to Item 17, the structural survey dated 27 October 2022 drafted by Marcus Wearmouth identified 5 items requiring action, of which items 2, 4 and 5 have not been completed. We find that the failure to provide mastic sealant around the windows as required by Item 2 is moderately serious as the lack of it affects the structural integrity of the windows. Whilst there had been a partial repair to the bathroom ceiling in attempt to replace the bathroom ceiling as required by Item 4, we find that this was a poor attempt and the bathroom ceiling plaster had since deteriorated. We find that the failures to repair internal cracks and plaster repairs and decoration as required by Item 5 to be less serious and the failure to upgrade internal ventilation is also at the less serious end of the range as, at the very minimum, windows could be opened.
64. In conclusion, in our opinion as an expert tribunal, the items not complied with or complied with poorly are not very significant or at the serious end of the range of section 30(1) offences.

65. The Respondent did not appeal the Improvement Notice nor did she ignore it and had attempted to comply with it prior to the compliance date by arranging visits by several contractors and certain works were carried out before the compliance date. Due to difficulties obtaining tradesmen, she took the initiative and approached the Council to seek a variation of the compliance date and this took place in August 2022. Even after the compliance date, she had continued to attempt to carry out works rather than take no action at all
66. We had regard to the fact that the Property has been the subject of a previous RRO application made 48 days after the expiry of the compliance period in relation to the same Improvement Notice. This was determined by Consent Order in which the Respondent accepted that there had been non-compliance by the compliance date. This should have been sufficient to ensure that the works were carried out.
67. However, this needs to be considered within the context of the Respondent's mental health at the time, which we accept as mitigation. The Respondent had an underlying mental health condition from 2015. The GP letter submitted refers to November 2022, which, in our opinion, supports the Respondent's claim that the difficulties of not being able to get contractors to do the required works by the compliance date, (for whatever reason and we make no finding on the point), had adversely affected her mental health, although she was in denial as to that deterioration until her sister and friend recognized the need for medical attention and which she subsequently sought.
68. The Respondent is not a professional landlord and lets out this one Property. We do not consider her to be a bad landlord.
69. We are mindful that a Rent Repayment Order is not intended to be a windfall for a tenant. Having regard to the Hazards identified and the remedial works required, in our expert opinion, this was not a property that could properly be described as unsafe or unhealthy for occupation, as is often the case when considering other Improvement Notices.
70. Having regard to the matters mentioned above, we consider that this set of circumstances is a section 30(1) offence at the low to moderate end of the scale and that a starting point of 40% of the rent paid in the relevant period reflects the seriousness of the offence in this case. This amounts to £648.

Adjustments for section 44

Conduct

71. We have had regard to what deputy Chamber President Roger Martin KC said at paragraph 61 of *Newall v Abbott [2024] UKUT 181 LC*:

'When Parliament enacted Part 2 of the 2016 Act, it cannot have intended tribunals to conduct an audit of the occasional defaults and inconsequential lapses which are typical of most landlord and tenant relationships. The purpose of rent repayment orders is to punish and deter criminal behaviour. They are a blunt instrument, not susceptible to fine tuning to take account of relatively trivial matters. Yet, increasingly, the evidence in rent repayment cases, (especially those prepared with professional or semi- professional assistance), has come to focus disproportionately on allegations of misconduct. Tribunals should not feel that they are required to treat every such allegation with equal seriousness, or to make findings of fact on

them all. The focus should be on conduct with serious or potentially serious consequences, in keeping with the objectives of the legislation. Conduct which, even if proven, would not be sufficiently serious to move the dial one way or the other, can be dealt with summarily and disposed of in a sentence or two.'

72. For the reasons set out in paragraphs 42 to 45 above, we have not had regard to the allegations of bad behaviour by the Applicants towards tradesmen, which the Applicants strongly deny.
73. In relation to the Respondent's conduct, whilst we acknowledge that the Applicants say that they felt 'messed around' as the works were not carried out in what they considered to be the right order and they had to leave the Property for a week for some of the works to be done, it is a fact that remedial works will cause some disruption to the occupiers. We therefore do not consider that an adjustment is required to the proposed starting point of 40% due to the conduct of either party.

Financial

There is no written statement of the Respondent's financial circumstances. Following the decision in *Daff v Gyalui* [2023] UKUT 134 LC we enquired of the Respondent's representative at the hearing.

74. The Respondent provided oral evidence that she had a monthly pension of £1100 and no savings. She estimated the value of the Property at approximately £300,000, although we are not sure on what this was based and, in our expert opinion, appeared to be excessive. She had been living in rented accommodation, but had recently moved to a static caravan. She suggested that she would need to make payment arrangements with the Applicants if a Rent Repayment Order was made due to her limited income. We therefore find there needs to be a reduction of 10% from the starting point for reasons of financial hardship.

Conviction

75. We have no evidence that the Respondent had been convicted of any housing related offences or received any financial penalties. There is no reason to adjust the proposed Rent Repayment Order figure

Decision

76. We have decided in the light of all the above, that the appropriate level for the Rent Repayment Order is 30% of the maximum rent claimable (£1620), namely £486.
77. By Section 47 of the 2016 Act, a Rent Repayment Order is recoverable as a debt. If the Respondent does not make the payment to the Applicants in the above amounts within 28 days of the date of this decision, or fails to come to an arrangement for payment of the said amounts which is reasonable and agreeable to the Applicants, then they can recover the amounts in the County Court.

Reimbursement of fees

78. As the Applicants have succeeded in their application, it is appropriate to order that the Respondent refund to them the Tribunal fees that they have paid, namely £100 and £200 for the application and hearing fees respectively.

Costs

79. No application for costs has been made and we therefore make no such order.

Appeal

80. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

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Judge T N Jackson