FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/38UC/HMJ/2024/0004**
Property	**:**	**22 Little Field, Oxford, OX4 6LA**
Applicants	**:**	**Sophie Campbell**
Representative	**:**	**In person**
Respondent	**:**	**Khalid Mahdi Eldoud**
Representative	**:**	**Hathaway's Estate and Lettings Agents**
Type of application	**:**	**Application for a rent repayment order by a tenant under Sections 40, 41, 43 and 44 of the Housing and Planning Act 2016**
Tribunal members	**:**	**Judge A. Arul** **Mr. N. Miller Bsc**
Date of hearing	**:**	**3 April 2025**
Date of decision	**:**	**8 September 2025**

DECISION

Decisions of the tribunal

(1) The Tribunal determines that a Rent Repayment Order is made in the sum of £3,120.

(2) The Tribunal determines that the Respondent reimburse the Applicant for her application and hearing fees, totalling £320.

(3) The Tribunal makes the determinations as set out in the decision below.

Reasons

The Application

1. The Applicant sought determinations pursuant to section 41 of the Housing and Planning Act 2016 ("the Act") for a Rent Repayment Order ("RRO"). The Applicant alleges that the Respondent landlord has committed the offence of control or management of an unlicensed house, contrary to section 95(1) Housing Act 2004.

2. The sum sought in the application form is £18,720, which is the total rent paid by the Applicant for a period of 12 months between 28 February 2023 and 28 February 2024, when the application was made to the Tribunal.

Procedural history and Documents before us

3. The application, dated 28 February 2024, was lodged at the office for the Eastern region (where the Property is situated). On 2 December 2024, a Procedural Judge gave case management directions which required that the Applicant tenant send a bundle of relevant documents to the Tribunal and to the Respondent; and thereafter the Respondent send a bundle of relevant documents to the Applicant and the Tribunal. The Applicant then had permission to send a brief reply to the issues raised by the Respondent.

4. The Applicant filed a 191-page bundle, including a signed witness statement of the Applicant dated 8 January 2025, as well as other documents. The witness statement was very short, essentially referring to all documents in the bundle, and was not verified by a statement of truth.

5. The Respondent filed an unpaginated bundle of approximately 36 pages, including a statement of reasons in response to the Applicant's application (which was in reality a witness statement albeit it was not signed nor verified by a statement of truth).

6. The Applicant did not file any evidence in reply to the Respondent's bundle.

7. The Tribunal has based its decision on these documents alone; no site visit having been deemed necessary. All those documents have been read by the Tribunal, but it is not necessary in this decision to set out each and every one of them. They all contributed to the reasoning of the decision.

The Hearing

8. The Applicant attended the hearing and represented herself. She confirmed her statement, incorporating the contents of her application form and bundle. She answered questions from the panel and from Mr Hathaway.

9. The Respondent did not attend the hearing however his representative attended. The representative was Rhys Hathaway, a principal of Hathaway's Estate and Lettings Agents. He had been communicating with the Tribunal throughout the proceedings on the Respondent's behalf. He stated that the Respondent was abroad and could not travel due to war in the locality where he was and would therefore not be attending. Mr Hathaway confirmed that he was authorised by the Respondent to represent him. The Tribunal indicated that it was in the interests of justice to proceed with the hearing rather than adjourn; there being no application from either party in any event.

10. Mr Hathaway was asked whether he wished to adopt the statement of reasons in response to the application as his evidence. He asked us to disregard everything except section one of the longer letter and then the whole of the second statement (except the conclusion). This was understandable given that he was a representative and could only give evidence on matters which he had knowledge of. Equally, it meant we had very limited evidence overall on behalf of the Respondent. Mr Hathaway answered questions from the panel and from the Applicant.

The Background Facts

11. The Respondent is the landlord of 22 Little Field, Oxford, OX4 6LA ("the Property"). We were told by Mr Hathaway that it was purchased by the Respondent in 2021. We were shown the title register from the Land Registry however this showed the registered owner as Al Rayan Bank Plc with effect from 7 September 2021. Mr Hathaway told us that he was satisfied that the Respondent is the owner. He said he had seen a transfer (Land Registry form TR1) and there had been a change of ownership within only two months of the above mentioned because, he believes, it was sold as a lender repossession. We were aware of delays in Land Registry processing of completed transactions however the lack of documentation was unsatisfactory. Nonetheless, Mr Hathaway was

proceeding on the basis that the Respondent was the landlord for all relevant purposes.

12. The Property is a semi-detached house located in the Littlemore ward of Oxford City.

13. The Applicant first moved into the Property on or around 17 November 2021. She is the sole occupier.

14. The Applicant took the Property under the terms of a written assured shorthold tenancy, which she signed on 12 November 2021 and the Respondent signed on 11 November 2021. The tenancy agreement was also signed by two guarantors. The tenancy was for an initial 12-month term between 17 November 2021 and 16 November 2022. A deposit of £1,730 was paid and it appears that the arrangement was for the first six months' worth of rent to be paid on commencement and, thereafter, rent paid calendar monthly.

15. The tenancy agreement was never renewed and therefore became a periodic tenancy. From 17 November 2022 the rent increased from the initial rent of £1,500 to £1,560 per calendar month. There was some reference in the documents to £1,550 but the Applicant confirmed in evidence that this was an error. The Applicant confirmed that £1,560 had been paid in rent for each month in the 12-month period ending 28 February 2024 when she filed her application. The application included extracts from a bank statement showing the corresponding payments on the 17th day of each calendar month go back to 17 February 2023 and, in fact, earlier.

16. There is no dispute that the Respondent was the landlord and, as such, was the "person having control" and the "person managing" the Property pursuant to the Housing Act 2004.

17. The Applicant told us that she had never met the Respondent. All her dealings had been via the agents, Hathaway's. We had very limited information about the Respondent. Mr Hathaway confirmed in evidence that he had undertaken an identity check for the Respondent but he had not undertaken checks under money laundering legislation due to the low value of the rent collected. He said the Respondent lived between Qatar and the UK. They communicated via email or WhatsApp. He could not tell us much about his personal circumstances, for example occupation, income or assets. He did not believe the Property was mortgaged; there was no charge evident on the title entries however, as noted above, a bank was registered as the proprietor.

18. The Applicant was still residing in the Property at the time of the hearing. It was common ground that there were arrears of rent at that time, although from the evidence we heard, including the extracts from the

Applicant's bank statements, these had accrued after the making of the application.

19. The Applicant was asked in cross examination about the rent arrears and this included some reference to events in June 2022. The Applicant accepted there had been arrears multiple times during the tenancy. She said that the first occasion was rent withheld due to the Respondent failing to undertake maintenance work, but she paid this following advice from Citizens Advice. She told us that the current arrears were for different reasons. When pressed, she said this was due to the way she had been treated, the agents had not adhered to their duty of care to her and she felt failed by Oxford City Council. She could not say how many months' arrears there were, the date she stopped paying or how much was owed at the date of hearing. She was asked if she intended to pay future rent and replied that she felt she was not obliged to answer that question. We were told that a notice under section 8 of the Housing Act 1988 had been served but we had no details of this.

20. The Applicant was asked questions by Mr Hathaway about items of disrepair which she had alleged. It was put to her that Hathaway's had tried to make contact to arrange repairs, telephone messages had been left, and emails had been sent, opened, but not answered. An example was 8 March 2023. This, it was suggested, made it hard to conduct repairs in an orderly manner. The Applicant said that access had been given when needed, a maintenance person, 'Chad', had attended the Property to undertake an inspection, take photos and had fixed the washing machine. Further examples were put to her, mostly in July 2024, and some dating back to 2022 relating to a gas engineer. The Applicant denied that access had been refused to contractors and also objected to examples being used post the date of her application as she said she would have produced evidence showing that she had cooperated.

21. The Applicant was also asked questions about the keys to the Property. It seems that Hathaway's had never received their copy back from a plumber and were reliant on the Applicant providing access. She had never lost a key or reported one lost.

22. On the issue of licencing, we were pointed to evidence from the public register that a selective licence was issued by Oxford City Council covering the period from 2 September 2024 until 1 September 2029. The Applicant's case was that the Property had therefore been unlicenced for the entire period 1 September 2022 to 1 September 2024; during which she had occupied the Property as a tenant. These dates were not disputed by Mr Hathaway.

23. Mr Hathaway told us that his agency is small, the maximum staff numbers are four people and they have around 90 properties on their books. The Respondent has two properties with them including the

Property. Mr Hathaway confirmed his understanding that the selective licencing scheme for Oxford City came into force on 1 September 2022. His agency did have some communications from Oxford City Council. They were aware of the scheme from the outset. Mr Hathaway gave some evidence about them not initially receiving preliminary information from the council, however. He said their offices were initially at 52 Clarendon Centre and they then moved to 33 Botley Road. They seemed to be between offices for the period 30 July 2023 to 1 January 2024 although Mr Hathaway did not make clear how this related to the earlier period when the licencing scheme was being publicised and then came into force.

24. Mr Hathaway told us that the licensing scheme was mismanaged and they have since changed how they do applications. There were massive backlogs with the council, and his agency was not directly informed of those applications submitted directly by landlords. He said it is a landlord responsibility and his agency only submit the applications if asked. They sent out a weekly email, some of these mentioned licencing, the Respondent would have received these.

25. Mr Hathaway told us that the Respondent believed he had a licence. He had signed up to the Oxford City Council mailing list. Hathaway's work on the basis of a landlord informing them. They can check the register but spoke to the council and there was a one-year backlog in processing applications. They therefore assumed the Respondent had correctly applied but did not verify this. He later said that the Respondent had been asked if he had applied for a licence and had said yes. When asked if the Respondent had confirmed via email or WhatsApp that he had applied for a licence directly, Mr Hathaway could not be certain and said he would have to check his records.

26. Mr Hathaway was asked about the process once Oxford City Council considered the application from the Respondent for a selective licence prior to formally granting it on 2 September 2024. He confirmed that some remedial works were required, as special conditions, and there was a schedule of works dated 23 July 2024. These were later waived as Hathaway's produced evidence to the council that they had tried unsuccessfully to access the Property. We were not shown any documents relating to these requirements or the waiver. On questioning, Mr Hathaway confirmed there was a category 1 hazard (i.e., under the Housing Health and Safety Rating System) for damp mould. The required remedial works included 1. clean mould to the lefthand bedroom, 2. repair or replace thermostats 3. repair or replace faulty radiator 4. instal mechanical extractor fan to two bedrooms, 5. repair or replace the handle for the rear left bedroom window. He clarified that some items, such as the gas hob not working, were not on the schedule.

27. The Applicant was asked if she could point to any evidence that a selective licence was required. We were directed to two emails, dated 2

January 2024 and 19 February 2024, from Oxford City Council. Each confirmed that, at the date of sending, no application for a selective licence had been received in respect of the Property. She stated that an officer of the council had informed her that she had told Hathaway's that a licence was needed.

28. The Applicant directed us to an email which she sent to Hathaway's on 25 November 2022 which listed various issues including with radiators, the cooker switch, bathroom tap and external security lighting, amongst others. The Applicant drew our attention to an email which she sent to Oxford City council on 2 January 2024 in which she noted that some of those matters were still outstanding. For example, the cooker switch, the leaking pipe and radiator issues. We were directed to some email correspondence between the Applicant and the council around May 2024 regarding these ongoing issues as well as with the Applicant's MP.

Issues

29. The Tribunal must determine the following issues by reference to the legislation and the relevant authorities.

    a) Is the Tribunal satisfied beyond reasonable doubt that the landlord has committed the alleged offence?

    b) Does the Respondent have a 'reasonable excuse' defence?

    c) Should the Tribunal make an RRO?

    d) What amount of RRO, if any, should the Tribunal order?

        i. What is the maximum amount that can be ordered under s.44(3) of the Act?

        ii. What account must be taken of

            (1) The conduct of the landlord

            (2) The financial circumstances of the landlord

            (3) The conduct of the tenant?

    e) Should the Tribunal order the Respondent to reimburse the Applicant's application and hearing fees?

The Legal Framework

The Housing Act 2004 ("the 2004 Act")

30. The 2004 Act introduced a new system of assessing housing conditions and enforcing housing standards. Part 2 of the Act relates to the licencing of Houses in Multiple Occupation ("HMOs") whilst Part 3 relates to the selective licensing of other residential accommodation.

31. Section 79 places a general duty on local housing authorities to make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by Part 3. Section 80 allows a local housing authority to designate an area in their district as subject to selective licensing.

32. Section 95 creates an offence of having control and management of a house which is required to be licensed but is not so licensed. On summary conviction, a person who commits an offence is liable to a fine. An additional remedy under section 96 is that either the local housing authority or an occupier could apply to a Tribunal for a RRO.

33. Section 263 provides:

"(1) In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises–

> *(a) receives (whether directly or through an agent or trustee) rents or other payments from–*
>
> > *(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and*
> >
> > *(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or*
>
> *(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or*

lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person."

34. By section 95(4) it is a defence to proceedings for an offence under this part if there is a "reasonable excuse" for having control or of managing the house without a licence or failing to comply with a condition of the licence.

The Housing and Planning Act 2016 ("the 2016 Act")

35. Part 2 of the 2016 Act introduced a raft of new measures to deal with "rogue landlords and property agents in England". Chapter 2 allows a banning order to be made against a landlord who has been convicted of a banning order offence and Chapter 3 for a data base of rogue landlords and property agents to be established. Section 126 amended the 2004 Act by adding new provisions permitting local housing authorities to impose financial penalties of up to £30,000 for a number of offences as an alternative to prosecution.

36. Chapter 4 introduced a new set of provisions relating to RROs. An additional five offences were added in respect of which a RRO may now be sought. The maximum award that can be made is the rent paid over a period of 12 months during which the landlord was committing the offence. However, section 46 provides that a Tribunal must make the maximum award in specified circumstances.

37. The phrase "such amount as the tribunal considers reasonable in the circumstances" which had appeared in section 74(5) of the 2004 Act, does not appear in the new provisions. It has therefore been accepted that the case law relating to the assessment of a RRO under the 2004 Act is no longer relevant to the 2016 Act.

38. In the Upper Tribunal (in *Rakusen v Jepsen* [2020] UKUT 298 (LC)), Martin Rodger KC, the Deputy President, considered the policy of Part 2 of the 2016. He noted (at [64]) that: *"the policy of the whole of Part 2 of the 2016 Act is clearly to deter the commission of housing offences and to discourage the activities of "rogue landlords" in the residential sector by the imposition of stringent penalties. Despite its irregular status, an unlicensed HMO may be a perfectly satisfactory place to live. The main object of the provisions is deterrence rather than compensation."*

39. In the Court of Appeal, Arnold LJ endorsed these observations. At [36], he noted that Part 2 of the Act was the product of a series of reviews into the problems caused by rogue landlords in the private rented sector and methods of forcing landlords to either comply with their obligations or

leave the sector. Part 2 is headed "Rogue landlords and property agents in England". At [38], he noted that the Act conferred tough new powers to address these problems. At [40], he added that the Act is aimed at "combatting a significant social evil and that the courts should interpret the statute with that in mind". The policy is to require landlords to comply with their obligations or leave the sector.

40. In the subsequent decision of *Kowalek v Hassanien Limited* [2022] EWCA Civ 1041, Newey LJ summarised the legislative intent in these terms (at [23]):

> *"It appears to me, moreover, that the Deputy President's interpretation of section 44 is in keeping with the policy underlying the legislation. Consistently with the heading to part 2, chapter 4 of part 2 of the 2016 Act, in which section 44 is found, has in mind "rogue landlords" and, as was recognised in Jepsen v Rakusen [2021] EWCA Civ 1150, [2022] 1 WLR 324, "is intended to deter landlords from committing the specified offences" and reflects a "policy of requiring landlords to comply with their obligations or leave the sector": see paragraphs 36, 39 and 40. "[T]he main object of the provisions", as the Deputy President had observed in the UT (Rakusen v Jepsen [2020] UKUT 298 (LC), [2021] HLR 18, at paragraph 64; reversed on other grounds), "is deterrence rather than compensation". In fact, the offence for which a rent repayment order is made need not have occasioned the tenant any loss or even inconvenience (as the Deputy President said in Rakusen v Jepsen, at paragraph 64, "an unlicensed HMO may be a perfectly satisfactory place to live") and, supposing damage to have been caused in some way (for example, as a result of a failure to repair), the tenant may be able to recover compensation for it in other proceedings. Parliament's principal concern was thus not to ensure that a tenant could recoup any particular amount of rent by way of recompense, but to incentivise landlords. The 2016 Act serves that objective as construed by the Deputy President. It conveys the message, "a landlord who commits one of the offences listed in section 40(3) is liable to forfeit every penny he receives for a 12month period". Further, a landlord is encouraged to put matters 9 right since he will know that, once he does so, there will be no danger of his being ordered to repay future rental payments."*

41. Section 40 provides:

> *"(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."

42. Section 40(3) lists seven offences "committed by a landlord in relation to housing in England let by that landlord". Those include "control or management of an unlicenced HMO, and "control or management of an unlicenced house".

43. In *Acheampong v Roman* [2022] UKUT 239 (LC), the Upper Tribunal established that a Tribunal is obliged to assess the relative seriousness of seven categories of offence which "can be seen from the relevant maximum sentences on conviction" in assessing any RRO.

44. The failure to licence a property is one of the less serious offences of the seven offences for which a RRO may be made.

45. Section 41 deals with applications for RROs. The material parts provide:

"(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."

46. Section 43 provides for the making of RROs:

"(1) The First-Tier Tribunal may make a rent repayment order if satisfied, <u>beyond reasonable doubt</u>, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted)."

47. Section 44 is concerned with the amount payable under a RRO made in favour of tenants. By section 44(2) that amount "must relate to rent paid during the period mentioned" in a table which then follows. The table provides for repayment of rent paid by the tenant in respect of a

maximum period of 12 months. Section 44(3) provides (emphasis added):

> *"(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."*

48. "Rent" is not defined in the Act. However, under the Rent Acts, "rent" has had a clearly defined meaning, namely "the entire sum payable to the landlord in money" (see Megarry on the Rent Acts, 11th Ed at p.519 and the reference to *Hornsby v Maynard* [1925] 1 KB 514 and subsequent cases). The meaning is the same at common law as under the Rent Acts (see the current edition of Woodfall "Landlord and Tenant" at 7.015 and 23.150).

49. Section 44(4) provides:

> *"(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."*

50. Section 46 specifies several situations in which a Tribunal is required, subject to exceptional circumstances, to make a RRO in the maximum sum. These relate to the five additional offences which have been added by the 2016 Act where the landlord has been convicted of the offence or where the local housing authority has imposed a financial penalty.

51. In *Williams v Parmar* [2021] UKUT 244 (LC); [2022] HLR 8, the Chamber President, Fancourt J, gave guidance on the approach that should be adopted by Tribunals in applying section 44:

(i) A RRO is not limited to the amount of the profit derived by the unlawful activity during the period in question (at [26]);

(ii) Whilst a Tribunal may make an award of the maximum amount, there is no presumption that it should do so (at [40]);

(iii) The factors that a Tribunal may take into account are not limited by those mentioned in section 44(4), though these are the main factors which are likely to be relevant in the majority of cases (at [40]).

(iv) A Tribunal may in an appropriate case order a sum lower than the maximum sum, if what the landlord did or failed to do in committing the offence is relatively low in the scale of seriousness ([41]).

(v) In determining the reduction that should be made, a Tribunal should have regard to the "purposes intended to be served by the jurisdiction to make a RRO" (at [41] and [43]).

52. The Deputy Chamber President, Martin Rodger KC, has subsequently given guidance of the level of award in his decisions *Simpson House 3 Ltd v Osserman* [2022] UKUT 164 (LC); [2022] HLR 37 and *Hallett v Parker* [2022] UKUT 165 (LC); [2022] HLR 46. Thus, a Tribunal should distinguish between the professional "rogue" landlord, against whom a RRO should be made at the higher end of the scale (80%) and the landlord whose failure was to take sufficient steps to inform himself of the regulatory requirements (the lower end of the scale being 25%).

53. In *Acheampong*, Judge Cooke stated that Tribunals should adopt the following approach:

> *"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).

21. I would add that step (c) above is part of what is required under section 44(4)(a). It is an assessment of the conduct of the landlord specifically in the context of the offence itself; how badly has this landlord behaved in committing the offence? I have set it out as a separate step because it is the matter that has most frequently been overlooked."

54. On 7 February 2023, in *Fashade v Albustin* [2023] UKUT 40 (LC), the Deputy President, Martin Rodger KC (at [21]) summarised the approach adopted by the Chamber President in Williams v Palmer in these terms:

"It was necessary in each case to consider the seriousness of the offence (a crucial element of the landlord's conduct) and to fix the amount of the order having regard to its seriousness and all other relevant considerations, including those particularly identified in subsection (4)".

55. Most recently, the Deputy President, Martin Rodger KC summarised a number of the decisions above in *Newell v Abbott and Okrojek* [2024] UKUT 181 (LC). The Tribunal has applied the guidance in all the above cases to its decision.

Decisions on the Issues

56. It is common ground that the Applicant was occupying the Property under a tenancy agreement. It is a matter of public record (and not disputed by the Respondent) that the selective licencing scheme came into force in Oxford City from 1 September 2022 and that it applied to the Property. On 2 January 2024 and, again on 19 February 2024, the council confirmed to the Applicant by email that it had not received an application for a licence. It is common ground that the licence was only obtained on 2 September 2024. We did not have details of when the application was made, but were satisfied that it was after 28 February 2024.

57. It follows that an offence was committed by the Respondent. At the date of the application on 28 February 2024, there was no selective licence. The offence was committed for the full 12 months preceding that date.

58. Furthermore, the Tribunal determined to exercise its discretion and make an RRO. There was an offence by a landlord who operated at least to rental properties in the UK and no compelling reason why an RRO should not be made in principle. The Tribunal had regard to the guidance issued by the Upper Tribunal and the policy objectives behind the powers granted to it, as summarised earlier in this decision.

Reasonable Excuse

59. The Respondent's representative made several submissions suggesting that there was a reasonable excuse that no licence had been obtained. The essence of these submissions was that the Respondent had made some attempt to register with Oxford City Council but had mistakenly believed that signing up to the mailing list was sufficient. Further, the Respondent's agents had assumed that he had applied and there was a period of time when they were not receiving mail from the council.

60. The evidence on this point was not compelling. We did not hear from the Respondent himself as to the state of his knowledge, and what methods he had in place to keep up to date as to the relevant law surrounding his letting. We were not satisfied that diligence was exercised in checking the requirements and following up. It is clear that both the Respondent and the agents knew of the requirements, at least in principle, yet between them did not investigate what was required and whether it had been satisfied. Signing up to a mailing list with no further action is not, in our view, sufficiently diligent conduct.

61. For all those reasons, we consider there is no reasonable excuse here. That is not to say that it cannot be relevant when considering quantum, but it does not amount to a reasonable excuse to not obtain a licence.

Quantum

62. The Tribunal was somewhat hampered in its consideration of quantum due to the lack of evidence supplied by the Respondent.

63. The Tribunal concluded that the maximum amount that can be ordered is £18,720, being £1,560 in rent which was paid for each of the 12 months between 28 February 2023 until 28 February 2024. No evidence was provided by the Respondent as to what, if any, proportion of that sum contributed to bills and utilities. We were told that the Applicant was not in receipt of universal credit over this period.

64. The Applicant invited us to order payment of the maximum amount. Mr Hathaway submitted that he believed that an order for an RRO in the sum of £18,720 would be unfair; his basis for this was that it was a high number, but we were not given any context for this contention. Mr Hathaway was frank in his submissions that 'something' should be

ordered as he accepted that the Property was unlicensed over the relevant period. However, the Respondent genuinely felt that he had correctly applied. The problem with this submission is that no evidence of what the Respondent believed or did not believe had been forthcoming from him. We could only go on what Mr Hathaway believed that the Respondent himself believed, which was plainly not a satisfactory position.

65. We considered the conduct of the Respondent generally. Although we were not presented with any evidence of him joining a mailing list, on the balance of probabilities we accept that some action in this regard was likely. We noted the involvement of the agents and that the Respondent applied and securely the licence very quickly after being contacted by the council. Mr Hathaway accepted that there were some remedial works required to the Property. There was no suggestion of noncompliance with legislative requirements such as gas safety and we were shown evidence of attempts to secure annual servicing visits. We accept that there were difficulties securing access although most of the difficulties appear to have occurred after the application was made to the Tribunal. We noted that some remedial actions had been longstanding however we considered that these were not significant so as to, for example, make the Property unsafe or hinder the general use and enjoyment of it. If they had been more significant, we consider that the Applicant would have been more proactive in ensuring access. Further, the council would not have waived the conditions initially imposed on the selective licence application.

66. We were provided with no financial circumstances of the Respondent by which to assess income or assets and were therefore unable to take account of these. We were not satisfied with the explanation given for the change of ownership of the Property and hence what was really occurring regarding receipt of rents.

67. We noted that Oxford City Council had not taken enforcement action against the Respondent and, in fact, had agreed to waive some of the conditions initially imposed when considering the licence application. There was therefore no evidence of a relevant conviction or historical offences.

68. In relation to the conduct of the Applicant, we had some concerns that she had declined to pay rent at some point following her application to the Tribunal. We were also not satisfied that communications from the agents had been responded to within a reasonable time. Nonetheless, these largely postdated the application and we did not consider that they were sufficient to reduce any RRO. There has been some reference to other conduct points in the Respondent's bundle, and statement in response to the application. In particular, the Applicant's refusal to enter a fixed term tenancy and a suggestion of subletting. We do not conider that the Applicant was under any obligation to enter a fixed term

tenancy. We were presented with no evidence of subletting contrary to the tenancy agreement or at all; indeed, the Respondent's own submissions referred to this being 'possible' or 'potential' and put it no higher than that. We were therefore not satisfied that the Applicant was in breach of her tenancy agreement to any degree that would impact on the amount of an RRO.

69. In considering the seriousness of this offence, the Tribunal determines this is towards the less serious end of the scale, of a less serious offence. That is because there is no evidence of malfeasance on the part of the Respondent and, whilst he ought to have been more diligent in following up with the council, once he did so the licence was granted without the council expressing any significant concerns about the condition of the Property.

70. As such the Tribunal consider that a RRO of two months' rent is appropriate. This amounts to £3,120. This is sufficient to penalise an offence however reflects the reality of the situation, including that the local housing authority granted the licence without the required works being completed due to access issues.

71. At the time of the hearing the Applicant owed arrears of rent. The Respondent suggested there might be some offset of any RRO. As noted by us at the hearing, we cannot make order directing payment in a particular manner or otherwise deal with the practicalities of payment. We can only determine what sums are payable.

72. It is also appropriate for the application and hearing fees paid by the Applicant to be refunded. The Respondent's representative did not raise an objection to this; indeed, he accepted that the Property had been unlicenced so a contribution was appropriate. The Applicant has succeeded in her application and we consider it just to order the full amount of fees to be repaid to her by the Respondent. This amounts to £320.

Name: Judge A. Arul **Date:** 8 September 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).