



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

Case reference : **LON/00AY/HMF/2025/0643**

Property : **4, Crownstone Court, Crownstone Road,
London. SW2 1LS**

Applicant : **Mr. Saad Abdirahman**

Representative : **Not represented**

Respondent : **Mr. Brian Rodriguez Guerra**

Representative : **Not represented**

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

Tribunal : **Judge S.J. Walker
Tribunal Member Mr. A. Fonka FCIEH,
CEnvH, M.Sc.**

**Date and Venue of
Hearing** : **22 August 2025
10, Alfred Place, London WC1E 7LR**

Date of Decision : **15 September 2025**

DECISION

**The application for a Rent Repayment Order under section 43 of the
Housing and Planning Act 2016 is refused.**

Reasons

The Application

1. The Applicant seeks a rent repayment order pursuant to sections 43 and 44 of the Housing and Planning Act 2016 (“the Act”) for the period during which he was a tenant of the property. His tenancy began on 1 October 2023 and continued until some time in July 2024.
2. The application was received by the Tribunal on 10 October 2024 and is in time. It alleges that the Respondent has committed a number of offences including offences of harassment contrary to section 1 of the Protection from Eviction Act 1977 and an offence of managing or being in control of an unlicensed HMO contrary to section 72(1) of the Housing Act 2004.

The Hearing

3. The hearing was conducted face-to-face. The Applicant attended, but the Respondent did not and was not represented.
4. The Tribunal firstly considered whether it should proceed with the hearing in the absence of the Respondent. In doing so it took account of rules 2 and 34 of the Tribunal Procedure (First tier Tribunal) (Property Chamber) Rules 2013 (“the Rules”).
5. Rule 34 of the Rules allows a hearing to proceed in the absence of a party if (a) the Tribunal is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify them of it and (b) the Tribunal considers that it is in the interests of justice to proceed.
6. The Tribunal was satisfied that the Respondent was aware of the hearing. This was made clear by an e-mail received from him on the morning of the hearing which stated that he was unable to attend as he was visiting family in Madrid on vacation. In this e-mail he stated that he wished the hearing to be re-scheduled.
7. The Tribunal file showed that notice of the hearing date was sent to the Respondent by e-mail on 28 April 2025, almost 4 months prior to the hearing. In the time since that notice was sent to him no request for an adjournment was received by the Tribunal until the morning of the hearing.
8. Given the circumstances, and the fact that the Respondent had provided a bundle in which he had clearly set out his case, the Tribunal was satisfied that it was in the interests of justice to proceed in his absence.
9. The Tribunal had before it a bundle of documents prepared by the Applicant which comprised 37 pages. References to pages in this bundle will appear as a reference to the electronic page number preceded by A (eg page A25). It also had a 33 page bundle prepared by the Respondent.

References to pages in that bundle will appear as a reference to the electronic number preceded by the letter R (eg page R25).

The Legal Background

10. In this case the Tribunal began by considering whether or not it had jurisdiction to make an order against the Respondent. In doing so it had regard to the following cases.
11. By virtue of the decision of the Supreme Court in the case of Rakusen -v- Jepsen and others [2023] UKSC 9 an order may only be made against the immediate landlord of a tenant.
12. The Tribunal also had regard to the decision of the Upper Tribunal in the case of Bannister -v- Akinremi [2025] UKUT 180 (LC). In that case a tenant made an application for a rent repayment order against Ms. Bannister, a person who was themselves a tenant in the same property. Although the freehold of this property was owned by somebody else, Ms. Bannister granted tenancies, relet rooms, collected rent and deposits and arranged for repairs to be carried out. They said that they had done so for several years but had only done so on behalf of the owner and that they had not benefitted financially from the arrangement. The applicant tenant in that case paid their rent directly to Ms. Bannister. The Tribunal found that the landlord in the case was the owner of the property and that Ms. Bannister was the owner's agent. Nevertheless, it made an order against Ms. Bannister.
13. Ms. Bannister appealed the decision on the ground that she was not the landlord and so an order could not be made against her. The Upper Tribunal concluded that the Tribunal had been correct to conclude that the actual landlord was the owner of the property and that Ms. Bannister was acting on their behalf. It further decided that, that being the case, the Tribunal had no jurisdiction to make an order against Ms. Bannister as she was not herself the immediate landlord even though she purported to be.

Who is the Landlord?

14. In the light of this legal background the Tribunal considered who the landlord is in this case.
15. The case put forward by the Respondent is set out in his witness statement (pages R2-3). He states that he sublet a room in his mother's rented apartment and that his mother is the main tenant of the property and is, therefore, the owner. He further says that she would rent out spare rooms to help with the cost of the rent. The Respondent also says that he did not benefit financially from the arrangement and that all rent paid to him was passed directly to his mother. This is supported by the evidence contained in the Respondent's bank statements (pages R15 to R33). These show regular receipts of money from the Applicant with, shortly after each payment, a payment out to Sylvia Guerra Pacurrucu.

16. The Respondent goes on to say that in order to maintain her tenancy his mother asked him to oversee the property and manage the rental of two rooms.
17. This evidence is supported by a witness statement from Sylvia Pacurrucu (pages R4-5). In this statement she says that she explained to the Applicant that she was subletting a room for a period of 6 months.
18. The contents of the Respondent's bundle certainly suggested to the Tribunal that the Respondent was merely acting as his mother's agent and that the real landlord was Sylvia Pacurrucu.
19. It therefore asked the Applicant a number of questions in relation to this issue. In response, the Applicant stated the following. He did not know whose flat he was living in, but he did know that the property was managed by a company called Affordable Lettings. He thought he was subletting and he thought Sylvia was the person living here. He thought that Affordable Lettings were letting to Sylvia who was then letting to him. He had met Sylvia. She gave the impression that she was in control of the property, and she said that she was the landlord.
20. The Applicant had no evidence to suggest that the Respondent and his mother were joint tenants of the property.
21. In the light of this evidence the Tribunal concluded that the landlord of the property was Sylvia Pacurrucu, the Respondent's mother. Although it accepted that the tenancy agreement (pages A19 to A24) stated that the landlord was the Respondent, and although the rent was paid to him, the reality of the situation was that he was merely acting as his mother's agent.

The Tribunal's Conclusion

22. Given its conclusion that the Applicant's landlord was Sylvia Pacurrucu and that the Respondent was merely acting as her agent, the Tribunal concluded, following the decisions in *Rakusen* and *Bannister*, that it had no jurisdiction to make an order against the Respondent as he is not the Applicant's immediate landlord.
23. The Tribunal did consider the possibility of allowing the Applicant to amend his application by substituting Ms. Pacurrucu as Respondent. However, given that the tenancy ended in July 2024, by the time of this hearing more than 12 months had elapsed since any offence was being committed and so any such amendment would not comply with the requirements of section 41(2) of the Act.
24. The application was, therefore, refused.

Name: Judge S.J. Walker

Date: 15 September 2025

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.