



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

Case Reference : HAV/00HA/HMC/2025/0001

Property : 1 Chilcompton Road, Midsomer Norton,
Radstock, BA3 2PJ

Applicants : William and Charlotte Ryan

Respondent : Alan Tamblyn

Type of Application : Application for Rent Repayment Order under
the Housing and Planning Act 2016

Tribunal Members : Tribunal Judge H Lumby
Mr P Smith FRICS
Ms P Gravell

Venue : Havant Justice Centre (via CVP)

Date of Hearing : 4th September 2025

Date of Decision : 17th September 2025

DECISION

Decisions of the tribunal

- (1) The tribunal dismisses the application for a rent repayment order against the Respondent.
- (2) The tribunal orders the Respondent to reimburse to the Applicants the application fee of £110 and the hearing fee of £227 (amounting to £337 to be reimbursed in total), such repayment to be made within 28 days of the date of this decision.

Introduction

1. The Property is a terraced house owned by the Respondent. Mr and Mrs Ryan occupied the Property as tenants from 2013 until December 2024.
2. The Applicant have applied for a rent repayment order against the Respondent under sections 40-44 of the Housing and Planning Act 2016 ("**the 2016 Act**"). The application was received on 11 February 2025.
3. The basis for the application is that the Respondent failed to comply with an Improvement Notice served in respect of the Property; this may amount to an offence pursuant to section 30(1) of the Housing Act 2004 ("**the 2004 Act**").
4. The Applicants' claim is for £8,706 for the period January to November 2024 (three months at £702 per month and eight months at £825 per month). They have also asked for their deposit of £575 to be included in the order but this is not permitted. The Applicants also seek to recover their application costs (which will include the application and hearing fees).
5. An improvement notice has been served by the local council (Bath and North East Somerset Council on 17 May 2024. This followed an inspection by the local council on 8 February 2024, also attended by the Applicants and the Respondent. The tribunal has not been provided with a copy of the original notice. On 14th June 2024, the Improvement Notice was varied, and the tribunal infers that the commencement date for the works was 17th June 2024. The local council inspected the Property on 14th August 2024 and confirmed to the Applicants on 21 October 2024 that the Respondent had not complied with the notice, as varied. That letter confirmed that the Applicants could apply for a Rent Repayment Order. On 11th November 2024, the Improvement Notice was varied for a second time; that variation said the decision to vary was made on 23 October 2023. The date to commence works had been varied to 11th December 2024. Mr Tamblyn's evidence was that the applicants had vacated the property on 9th December 2024 and returned the keys on 15th December 2024. As no rental payments were made after 11th December 2024 the tribunal did not make any decision about

whether the version of the Improvement notice with the variation made on 23rd October 2024 and confirmed on 11th November 2024 had been complied with.

6. The tribunal issued Directions dated 8 May 2025. These set the date for the final hearing as 22 July 2025. No reply was received from the Respondent but a bundle was received from the Applicants.
7. The Respondent made a case management application on 22 July 2025 prior to the hearing, requesting an adjournment. He contended that he was aware of the application but had not received the Directions or the bundle and was not aware of the hearing. He wished to contest this.
8. The application was considered at the commencement of the hearing. Given that the hearing would be considering whether a criminal offence had been committed, the tribunal considered that this was in the interests of justice to give the Respondent adequate time to prepare. The application to adjourn was therefore agreed and the final hearing postponed until 4 September 2025.
9. The tribunal was provided with a bundle running to 98 pages. The Applicant separately provided a witness statement from the local authority and the Respondent provided a statement in support of his case. The contents of these were noted by the tribunal.
10. The hearing was conducted using the CVP video service. There were no witnesses present for either party.

Relevant statutory provisions

11. The relevant statutory provisions are set out in the Schedule to this decision.

Alleged Offence

Improvement Notice

12. The tribunal is satisfied beyond all reasonable doubt that an Improvement Notice dated 17th May 2024 was served on Mr Tamblyn. The schedule of works required on that Improvement Notice was varied on 13th June 2024 which was confirmed by a notice dated 14th June 2024. The tribunal found that date for commencement of those works had not been changed from 17 June 2024. It is also satisfied beyond all reasonable doubt, based on the council's confirmation and the evidence of the Respondent, that the Respondent failed to comply with that notice. By way of example of that failure, the council had initially identified damp and mould to the rear spare bedroom and had said that external

render needed to be repaired. The variation to the schedule of works made on 13th June 2024 and confirmed by notice on 14th June 2024 had clarified that the work required was to repair the external render at the rear of the property, behind the affected bedroom. The tribunal is satisfied that no works to repair the exterior render to the first floor rear were started by 17th June 2024 or at all whilst the Applicants were in occupation of the Property. The failure to comply with an Improvement Notice lasted from 17 June 2024 until the further variation was decided on by the council on 23 October 2024. That final variation did not have retrospective effect and so this period of failure to comply remained, notwithstanding that last variation. However, the decision to vary the notice on 23 October 2024 would have the effect legally of preventing enforcement from that date on.

13. Accordingly, the tribunal determines that it is satisfied beyond all reasonable doubt that the Respondent failed to comply with the Improvement Notice between 17 June 2024 and 23 October 2024. This would be an offence under Section 30(1) of the 2004 Act unless the Respondent had a reasonable excuse.

Reasonable excuse

14. Accordingly, having established the ground for potentially making a rent repayment order, the tribunal considered whether the Respondent had a reasonable excuse for committing the offence. This would operate as a defence to the claim and mean that a rent repayment order could not be made.
15. The Respondent explained that his email settings meant that many emails he received were diverted to his Junk folder unless from a trusted sender. The Respondent confirmed when questioned that the Applicants were trusted senders but the local council and the tribunal were not; he said he did not know how to make them trusted senders. He would only check his Junk box when told there was an email he should review in there. He said he asked the council to post notices to him rather than email them. He contends that this was ignored by the council. The Respondent did not provide satisfactory evidence that he had made this request or received that confirmation and was uncertain when the request was made. He has subsequently made a complaint about this to the council but there is similarly uncertainty about when this was made.
16. An inspection of the Property took place on 8th February 2024, attended by the council, the Applicants and the Respondent. Mr Tamblyn said that after he was told by the council that he would be given a report in writing of their findings. He said he expected the council would send this as a letter in the post to his home address and that he assumed the council knew his current address. The council instead telephoned him and told him that correspondence had been emailed to him; as a result he checked

his Junk folder where he found the "first notice" from the council. He claims not to have received any other emails.

17. Mr Tamblyn also explained that he had moved house several years before but not changed his contact address at the Land Registry on the title to the Property. He said he had mainly communicated by telephone, email and messaging with the Applicants so had not thought to tell them his contact address had changed. He had not informed the council that they were using an incorrect address for him as he had not noticed this on the notice he had received. He claims to have received no notices by post. The result was that whilst any notices posted to him by the council to the address held for him from Land Registry records would be treated as validly served, he may still have a reasonable excuse for not complying with them, because he did not actually receive them.
18. As a result, he contends that he had no knowledge of the Improvement Notice beyond his interaction on the informal notice. He says that he met with the council to discuss the proposed works and contends that the council agreed that much of the work proposed was inappropriate. No evidence of any objections he made has been provided. He says that because he did not hear anything further, he assumed the whole matter had gone away. He said that he believed he had appealed successfully although no formal appeal (which would require an application to the tribunal) was in fact made.
19. The tribunal considered whether this amounted to a reasonable excuse.
20. It first considered which notices had been received by the Respondent. During the hearing Mr Tamblyn contended he only received that he had only received one notice (being the one he found in his Junk folder after the council called him) but was uncertain whether this was the informal notice issued on 14 February 2024 or the Improvement Notice dated 17th May 2024. The tribunal notes that the variation issued on 14th June 2024 refers to "The Council received on the 7th of June 2024 an application from the person on whom the Improvement Notice was served to vary the said Notice". In addition, it notes that in the covering letter to the Applicants the council wrote "Following recent communication between landlord Mr Alan Tamblyn and Housing Standards Manager Chris Mordaunt regarding works requested in the improvement notice served on 17th of May 2004, the Council is varying the Improvement Notice for the reasons stated in the attached notice." It therefore seems more likely that it was the Improvement Notice of 17th May 2024 which Mr Tamblyn had seen and sent representations about rather than the informal notice. The tribunal therefore concludes that the Respondent did receive the Improvement Notice but did not receive a copy of the 14th June 2024 variation. It also accepts his explanation that because he had not received that variation notice and

instead had heard nothing further, he believed that the council did not require him to comply with the Improvement Notice he had seen.

21. The tribunal was concerned that this misunderstanding by the Respondent had arisen, at least in part, because of his email settings and failure to provide an updated address. Not checking his Junk box or changing his settings to allow emails from the council or otherwise checking the position would seem surprising. The tribunal also acknowledged that the council had perhaps made mistakes in not sending hard copies or checking the correct address; it infers that they considered he had a reasonable excuse for his non-compliance following their case review and so unilaterally decided to extend time further in October 2024.
22. However, the tribunal considered that this was outweighed by the Respondent's resultant lack of awareness of the Improvement Notice and its requirements. The tribunal cannot even be sure how the notice was sent. Finding someone guilty of committing a criminal offence of which they were not aware seems inequitable and not in the interests of justice. On balance, therefore, it finds that this amounts to a reasonable excuse to the offence.
23. It must as a result dismiss the application. The application for a rent repayment order is therefore dismissed.

Cost applications

24. The Applicants have applied under paragraph 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for an order that the Respondent reimburse the application fee of £110.00 and the hearing fee of £227.00.
25. The Respondent has defended this action, showing on balance that he had a reasonable excuse to the offence. It would normally be the case that a respondent is not responsible for the fees in a case they have successfully defended. However, the tribunal considers that the Applicants brought the case in good faith, following advice from the local council that they could do so. They would all in likelihood succeeded had the Respondent managed his emails properly and notified the council of his change of address. As a result, the tribunal feels that it is just and equitable that the Respondent should pay the fees incurred by the Applicant in bringing this application.
26. The tribunal therefore orders the Respondent to reimburse to the Applicants the application fee of £110 and the hearing fee of £227 (amounting to £337 to be reimbursed in total), such repayment to be made within 28 days of the date of this decision.

Rights of appeal

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

SCHEDULE

Relevant statutory provisions

Housing and Planning Act 2016

Section 40

- (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 ...
- (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.

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
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	Housing and Planning Act 2016	section 21	breach of banning order

Section 41

- (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.

Section 43

- (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 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) ...

Section 44

- (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.

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

- (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.

Housing Act 2004

Section 30

- (1) Where an Improvement Notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it..
- (4) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.