FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BG/HMF/2025/0677**
Property	**:**	**Apartment 733, 2, Baltimore Wharf, London E14 9EQ**
Applicants	**:**	**(1) Mr. Vadym Verenikin** **(2) Ms. Yelyzavata Rudenko** **(3) Dr. Lee Keng Siang** **(4) Mr. Leonardo Ribeiro**
Representative	**:**	**Mr. Muhammed Williams of the London Borough of Tower Hamlets**
Respondent	**:**	**Ms. Scarlett Huang**
Representative	**:**	**Mr. Richard Jones**
Type of application	**:**	**Application for a rent repayment order by tenants**
Tribunal	**:**	**Judge S.J. Walker** **Tribunal Member Ms. S. Coughlin MCIEH**
Date and Venue of Hearings	**:**	**29 August 2025** **10, Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**16 September 2025**

DECISION

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(1) The Tribunal makes Rent Repayment Orders under section 43 of the Housing and Planning Act 2016 requiring the Respondent to pay the sums set out below

(a) To the First and Second Applicants jointly the sum of £11, 369.47

(b) To the Third Applicant the sum of £4,107

(2) The application by the Fourth Applicant was withdrawn and no order is made in respect of it.

(3) The application for an order under rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for the re-imbursement by the Respondent of the fees of £300 paid by the first three Applicants in bringing this application is granted. Payment is to be made within 28 days.

Reasons

The Application

1. The Applicants seek rent repayment orders pursuant to sections 43 and 44 of the Housing and Planning Act 2016 ("the Act") for various periods between 20 May 2023 and 9 October 2024 as set out in their application.

2. The application was received by the Tribunal on 24 January 2025 and is in time. It alleges that the Respondent has committed an offence contrary to section 72(1) of the Housing Act 2004 ("the 2004 Act") - having control or management of an unlicensed House in Multiple Occupation ("HMO").

Procedural Background

3. The Tribunal file showed that on 19 March 2025 a copy of the application was sent to the Respondent by e-mail. Directions were issued on 25 March 2025 and a copy of these were sent to the Respondent at the same e-mail address. Together with the directions, this notification included a listing questionnaire for completion by the Respondent. No response was received by the Tribunal. In addition, the directions required the Respondent to provide a bundle of documents, including their statement of reasons for opposing the application. by 13 June 2025.

4. On 15 April 2025 notification of the hearing date was sent to the Respondent. A reminder of the hearing date was sent on 11 August 2025.

5. No bundle or statement of case, or indeed any communication, was received from the Respondent until the day before the hearing when an e-mail was received from the same e-mail address as that to which the Tribunal's correspondence had been sent. This stated that the Respondent could not attend the hearing for personal reasons and authorised Mr. Jones to act on her behalf. The Tribunal also received a request from the Respondent for her to be permitted to observe the proceedings remotely.

6. Also, the day before the hearing, the Tribunal received an application from Mr. Williams on behalf of the Applicants. This sought permission to submit late evidence and also invited the Tribunal to remove the Fourth Applicant from the claim.

The Hearing

7. The hearing was conducted face-to-face. The first two Applicants attended and were represented by Mr. Muhammed from the London Borough of Tower Hamlets. The Respondent did not attend but was represented by Mr. Jones.

8. The Tribunal dismissed the application for the Respondent to observe the hearing remotely as no facilities were available to do this and it would have been disproportionate to adjourn the hearing, especially as the Respondent had sent a representative to the hearing.

9. The Tribunal then considered the extent to which the Respondent should be permitted to participate in the hearing. The Tribunal decided that it was too late in the proceedings for the Respondent to present any additional evidence other than by way of clarification and, in any event, no application was made to adduce such evidence. There was no application to debar the Respondent from participating in the hearing and the Tribunal decided that it was appropriate to permit Mr. Jones to ask questions of the Applicants' witnesses, to answer questions put to him by the Tribunal for the purpose of clarification, and to make submissions.

10. The Tribunal agreed to the application to remove the Fourth Applicant from the proceedings. It decided, though, not to admit the late evidence submitted on behalf of the Applicants as it was clear that this could have been submitted on time but was not.

11. The Tribunal had before it a numbered bundle of documents prepared on behalf of the Applicants which comprised 131 numbered pages. References to page numbers in this decision are to the numbered pages in that bundle.

The Legal Background

12. The Tribunal may make a rent repayment order when a landlord has committed one or more of a number of offences listed in section 40(3) of the Act. This list includes an offence contrary to section 72(1) of the 2004 Act. Such an offence is committed if a person has control of or manages an HMO which is required to be licensed but is not. By section 61(1) of the 2004 Act every HMO to which Part 2 of that Act applies must be licensed save in prescribed circumstances which do not apply in this case.

13. Section 55 of the 2004 Act explains which HMOs are subject to the terms of Part 2 of that Act. An HMO falls within the scope of Part 2 if it is of a prescribed description (a mandatory licence) or if it is in an area for the time being designated by a local housing authority under section 56 of the 2004 Act as subject to additional licensing, and it falls within any description of HMO specified in that designation (an additional licence).

14. To be an HMO of any description the property must meet one of the tests set out in section 254(2) of the 2004 Act. In this case the relevant test is

that in section 254(3) the self-contained flat test. A part of a building meets the self contained flat test if it;

"*(a)* *consists of a self contained flat;*
(b) *the living accommodation is occupied by persons who do not form a single household …;*
(c) *the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it;*
(d) *their occupation of the living accommodation constitutes the only use of that accommodation;*
(e) *rents are payable or other consideration is to be provided in respect of at least one of the those persons' occupation of the living accommodation; and*
(f) *two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.*"

15. By virtue of section 258 of the 2004 Act persons are to be regarded as not forming a single household unless they are all members of the same family. To be members of the same family they must be related, a couple, or related to the other member of a couple.

16. An offence under section 72(1) can only be committed by a person who has control of or manages the property in question. The meaning of these terms is set out in section 263 of the 2004 Act as follows;

"(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.

17. It is a defence to a charge of an offence under section 72(1) of the 2004 Act that a person had a reasonable excuse for committing it (section 72(5)). Any such defence must be established by the defendant on the balance of probabilities.

18. 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.

19. An order may only be made under section 43 of the Act if the Tribunal is satisfied beyond reasonable doubt that an offence has been committed.

20. By section 44(2) of the Act the amount ordered to be paid under a rent repayment order must relate to rent paid in a period during which the landlord was committing the offence, subject to a maximum of 12 months. By section 44(3) the amount that a landlord may be required to repay must not exceed the total rent paid in respect of that period.

21. Section 44(4) of the Act requires the Tribunal to have regard to the conduct of the landlord and tenant, the financial circumstances of the landlord and whether or not the landlord has been convicted of a relevant offence when determining the amount to be paid under a rent repayment order.

Has an Offence Been Committed?

22. The Applicants' case, as set out in their statement of case at pages 26 to 29 and the witness statements at pages 96 to 101, is simple and is as follows. The property is a 2-bedroom flat in a block of flats. The bedrooms were let separately to different occupiers, and there was a shared bathroom, living room and kitchen. There were 3 occupants at all times during the relevant period. The Applicants all entered into assured shorthold tenancy agreements with the Respondent, all lived in the property as their only or main residence, and the property was only used as a dwelling. Rent was paid to the Respondent. An additional licensing scheme was introduced in Tower Hamlets on 1 April 2019 and was renewed on 1 April 2024. It required properties where 3 or more people are living in 2 or more households and who share basic amenities to be licensed. Throughout the period in question the occupiers formed 2 households. The property was, therefore, an HMO requiring an additional licence. No such licence was in place nor had one been applied for. The Respondent was a person managing the property and so had committed an offence contrary to section 72(1) of the 2004 Act.

23. As explained above, the Respondent provided no evidential challenge to the Applicants' case.

Findings

24. On the basis of the witness statements and oral evidence provided by the Applicants during the hearing the Tribunal was satisfied of the following.

25. Mr. Verenikin and Ms. Rudenko, the First and Second Applicants, entered into an agreement which was described as a room rental agreement with the Respondent on 20 March 2023 (pages 30 to 36). The rent payable was £1,650 per month. The tenancy agreement stated that the landlord was the Respondent and that rent should be paid to her. The rent included the costs of council tax, electricity, water, the internet and a gym facility (page 31). On or about 26 December 2023 a further room rental agreement was entered into by the same parties. The terms were the same save that the rent was increased to £1,700 per month (pages 44 to 50). In fact, the rent payable had been increased to £1,700 per month from 20 September 2023 (see page 74 and page 96 at para 5).

26. Mr. Veriniken and Ms. Rudenko moved in on 20 March 2023. They occupied one of the two bedrooms as a couple. When they moved in there was already another tenant living in the other room. Mr. Batchvarov. They moved out on 19 May 2024.

27. On 13 September 2023 Dr. Lee, the Third Applicant, entered into a room rental agreement with the Respondent on similar terms to the agreement with the first two applicants. His rent was £1,365 per month and his tenancy was to commence on 11 October 2023 (pages 51 to 57). Dr. Lee moved in on 11 October 2023 and remained in the property until 11 October 2024.

28. There was a gap of one day between Mr. Batchvarov moving out of the property – 9 October – and Dr. Lee moving in – 11 October. For that one day only the first two Applicants were in occupation.

29. After Mr. Veriniken and Ms. Rudenko moved out, the room they had occupied was used solely for the accommodation of Air-B-and-B guests.

30. Throughout the period from 20 March 2023 to 19 May 2024, apart from the one day referred to above, there were always three people living in the property in at least two households. All the people living in the property were occupying it as their only or main residence and the property was not used for any other purpose.

31. For the period after 19 May 2024, the only people in occupation of the property other than Dr. Lee were short-term paying guests. Those people were not, therefore, occupying the property as their only or main residence.

32. Throughout the period all rent that was paid was paid to the Respondent.

33. Additional licensing designations were in effect throughout the period in question which included the area in which the property is located and which required properties with at least three occupants in at least two

households where basic amenities are shared to be licensed (pages 121 to 129).

34. Mr. Jones, on behalf of the Respondent, accepted that no licence was in place during the period in question and that none had been applied for.

Conclusions

35. On the basis of the facts set out above, the Tribunal was satisfied that the Respondent was committing an offence contrary to section 72(1) of the 2004 Act continuously for at least the period from 20 March 2023 to 19 May 2024 save for the single day, 10 October 2023, when there was a break in occupation. The property was an HMO which required an additional licence but which did not have one. The Respondent was a person having control of the premises as she received the rack-rent of the premises or would have done so if the premises were let at a rack-rent.

36. Although it was not expressly raised by the Respondent, the Tribunal nevertheless bore in mind its obligation to consider whether or not a defence of reasonable excuse applied in this case. The Respondent lives in New Zealand. Mr. Jones was asked why it was that she had chosen to manage the property herself rather than employing an agent to do so. His reply was that she did not have any problem with managing the property from abroad and that she would rather do this herself than pay others to do it for her.

37. When asked about the lettings in this case Mr. Jones said that the Respondent did not usually rent to couples but did so on this occasion because the First and Second Applicants were Ukrainian citizens entering under the Home Office scheme for refugees. She thought she was doing a good deed and because their address was given to the Home Office she did not think that anything further was required.

38. In the Tribunal's view the Respondent had made a conscious decision to manage her property from abroad. There was insufficient evidence before it to raise a defence of reasonable excuse. Whilst the Respondent may well have acted with good intentions, this in itself does not amount to a defence. The Tribunal was, therefore, satisfied that the offence had been committed.

Jurisdiction to Make an Order

39. On the basis of the wording of the tenancy agreements, which clearly named the Respondent as the landlord, and the fact that rent was paid to the Respondent, the Tribunal was satisfied that she was the Applicants' immediate landlord. It follows that the Tribunal has jurisdiction to make an order against her.

Amount of Order

40. The Tribunal therefore went on to consider the amount, if any, which it should order the Respondent to pay. In doing this it had regard to the approach recommended by UT Judge Cooke in the decision of

Acheampong -v- Roman and others [2022] UKUT 239 (LC) @ para 20. The first step is to ascertain the whole of the rent for the relevant period.

Rent

41. A schedule of the rent payments made by the First and Second Applicants is at page 93. The Tribunal was satisfied that this accurately reflected the contents of the bank statements contained in the bundle and no challenge was made to the figures by Mr. Jones.

42. The period for which an order was sought in respect of the first two Applicants was 20 May 2023 to 21 April 2024. The first rent payment in this period was made on 20 May 2023 at a time when they were in occupation and the offence was being committed. The final payment in that period was also was made at a time when they were in occupation and the offence was still being committed.

43. The total rent paid by the First and Second Applicants in the period in question was £20,200. On the single day that the offence was not being committed the monthly rent was £1,700. This amounts to an annual rent of £20,400. Thus, the daily pro-rata rent was £55.89.

44. It follows that the amount of rent which was paid by them in respect of a period during which an offence was being committed is £20,200 - £50.89 = £20,149.11.

45. The rent paid by Dr. Lee is shown in his bank statements – pages 82 to 91. The first payment was made on 13 September 2023 (page 82). However, this was paid at a time when he was not in occupation. Although there was an offence being committed at that time, the housing was not at that time let to Dr. Lee and so the requirements of section 41(2) of the Act are not met.

46. The next payment for which the Tribunal has documentary evidence was on 12 December 2023 when £1,365 was paid (page 83). This was at a time when Dr. Lee was in occupation and an offence was being committed and so it can be taken into account. The following payments follow;

12 January 2024	£1,365
11 February 2024	£1,365
12 March 2024	£ 420 (comprising two payments on the same day)
11 April 2024	£1,365
12 May 2024	£1,365

This makes a total of £7,245 in respect of which an order could be made.

Utilities

47. The rent paid by the Applicants included the cost of utilities. None of the parties have provided any evidence of the cost of those utilities. Following the approach in Acheampong the Tribunal therefore set out to make an informed estimate based on the evidence available to it.

48. In reaching its conclusions the Tribunal bore in mind the following facts which it found based on the evidence before it. The property is a flat in a modern purpose-built block with two bedrooms. Mr. Jones explained that heating and hot water were supplied centrally from a communal boiler plant. Utility costs were likely, therefore, to be relatively low. Doing the best it could and making use of its expert knowledge the Tribunal estimated the cost of utilities to be £50 per person per month.

49. The Tribunal decided to deduct these costs from the amount of rent paid to produce a figure for the maximum possible award.

50. In the case of the First and Second Applicants the period is 12 months. This produces a combined cost of utilities for the two of them for this period of £1,200. Deducting this from the figure already calculated for the rent leaves a total of £20,149.11 - £1,200 = £18,949.11

51. In the case of the Third Applicant, Dr. Lee, the period of occupation in question is 8 months, making a total deduction of £400. Thus, the total possible award for Dr. Lee is £7,245 - £400 = £6,845.

Seriousness of Offence

52. As required by the approach recommended in the case of Acheampong the Tribunal then considered the seriousness of the offence both as compared to other types of offence and then as compared with other examples of offences of the same type. From that it determined what proportion of the rent was a fair reflection of the seriousness of the offence.

53. The offence in question is one contrary to section 72(1) of the 2004 Act. This is, when compared with offences such as unlawful eviction, a more minor offence. This alone would justify a reduction of 30%.

54. The Tribunal also concluded that this was not a serious offence of its kind. Firstly, it considered the impact on the tenants of the absence of a licence. This was not a case where the Applicants had shown that there were widespread safety risks at the property.

55. The Tribunal also considered the fact that there was no evidence that the Respondent rented out any other properties.

56. Bearing these factors in mind the Tribunal concluded that the total amount payable should be reduced further. It considered that the reduction should be of a further 15%, meaning a reduction to 55% of the maximum.

Section 44(4)

57. The Tribunal then considered whether any decrease – or increase – was appropriate by virtue of the factors set out in section 44(4) of the Act.

58. In this case there were allegations of poor conduct by the Respondent as follows. Firstly, the Applicants complained of a slow response from her

when issues were raised with the property (see page 97 at para 7 and page 98 at para 7). The Tribunal accepted this evidence.

59. In addition, the Applicants complained that the Respondent had not secured the deposits they had paid into a deposit protection scheme. This was conceded by the Respondent who wrote to Mr. Williams contending that as the agreements with the Applicants were room rental agreements there was no requirement to pay deposits into a deposit scheme (page 28). The Tribunal was satisfied that, despite the agreements being described as room rental agreements, they amounted in law to assured shorthold tenancies. It followed that the deposits paid should have been secured, but they were not.

60. The Tribunal also bore in mind in the Respondent's favour the fact that she was seeking to do a good deed by housing refugees from Ukraine.

61. Taking all this into account the Tribunal decided that it was appropriate to increase the amount of the award payable by 5%, making the total reduction 40%.

62. In the course of submissions on behalf of the Respondent Mr. Jones argued that the Respondent was not in a financial position to pay any sum ordered to be paid. He said that the property was on the market for £500,000 but there had been little interest in it. However, no documentary evidence was provided to substantiate these assertions.

63. In the Applicants' statement of case it is stated that the property was bought for £400,000 in 2011 and is considered to be worth £586,000 (page 29).

64. In the absence of clear evidence to the contrary, the Tribunal was satisfied that the Respondent would be able to pay any sum ordered by it.

65. It follows, therefore, that the amount of the orders payable by the Respondent to the Applicants is as follows;
    (a) to Mr. Verenikin and Ms. Rudenko jointly £18,949.11 x 60% = £11,369.47
    (b) to Dr. Lee £6,845 x 60% = £4,107

66. The Applicants also sought an order under rule 13(2) of the Rules for the re-imbursement of the fees paid for bringing the Application. The Tribunal concluded that, given that the Applicants had succeeded in their application, it was just and equitable to make such an order.

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.