



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

Case reference : **HAV/OOHB/HMF/2025/0603**

Property : **Room 2, 228 Ridgeway Road,
Fishponds, Bristol, BS16 3LP**

Applicant : **Kale Greer**

Representative : **Kerry Ann Barr**

Respondent : **Willow Wood Homes Limited**

Representative : **Rajen Dalal**

Type of application : **Application for a Rent Repayment Order
Housing Act 2016**

**Tribunal
member(s)** : **R Waterhouse FRICS
C Barton MRICS**

Venue : **FTT (Property Chamber) Residential
Property, by Remote Video Platform**

Date of Directions : **25 July 2025**

DECISION

**That no rent repayment order is made.
That no costs order is made against the applicant.**

BACKGROUND

- (1) On 9 January 2025 the Tribunal received an application under section 41 of the Housing and Planning Act 2016 (the Act) from the Applicant tenant for a rent repayment order (RRO) against the Respondent landlord. The amount claimed is £8741.04 for the period 9 February 2024 to 2 January 2025.
- (2) The Applicant stated that the property in question did not have an HMO Licence.

- (3) The Applicant is represented by Kerry Ann Barr.

Directions of 21 April 2025

- (4) The Tribunal issued directions on 21 April 2025. The directions required the Applicant by the 14 May 2025 to send to the Respondent

- (i) A signed and dated statement
- (ii) written evidence from the local authority regarding the alleged offence by the Respondent
- (iii) a copy of the tenancy agreement
- (iv) any other documents relied upon
- (v) any witness statements.

- (5) The Respondent by 5 June 2025 to send to the Applicant;

- (i) a signed and dated statement
- (ii) evidence of the amount of any universal credit/housing benefit/rent received in the period
- (iii) evidence of financial circumstances including any outgoings, such as utility bills, paid by the landlord for the let property during the period the Applicant has occupied
- (iv) a statement as to any circumstances that could justify a reduction in the amount of any rent repayment order
- (v) any other documents to be relied upon
- (vi) a copy of all correspondence relating to any application for a licence and any licence that has now been granted

- (6) The Applicant has a right to Reply by 19 June 2025.

- (7) The Applicant shall be responsible for preparing the bundle which should be agreed by the parties and shall send one copy (electronically) to the Tribunal.

- (8) The directions of the 21 April 2025 contained details of how the bundle should be put together.

- (9) The Applicant also applied for an order against the Respondent for reimbursement of the application fee of £110 and the hearing fee of £227.00

Case Management Application dated 5 May 2025

- (10) The Respondent made a case management application to strike out the Applicant's case on the basis of "the Applicant wrongly claims an HMO licence was required by falsifying information in their application at point 3, claiming there are 5 rentable rooms during their tenancy, which would imply a mandatory licence. Further points were made in a continuation sheet.
- (11) The Applicant's submitted on 6 May 2025, a rebuttal to the Respondent's strike out application.

Case Management Application by Respondent dated 16 May 2025

- (12) The Respondent submitted a case management application to strike out the Applicant's case on the grounds of non-compliance with directions. Specifically, "by the 14 May the Applicant was to provide a CPR compliant witness statement and as at point 19(ii) it to contain explicit evidence from the local authority that the alleged offense has occurred by "confirming the dates the property was without licence and serve copy on the Respondent. The Applicant has failed to do so."
- (13) By Order of the Tribunal dated 27 May 2025 the Respondent's case management application to strike out the case for non compliance of directions was refused. The Applicant was reminded that the final hearing bundle was due to be sent to the Tribunal and the Respondent by 19 June 2025.

Case Management Application by Respondent dated 19 June 2025

- (14) The Respondent submitted a case management application dated 19 June 2025, requesting the Tribunal make directions " following the Applicant's refusal to follow directions 21 April 25 [sic 26] at points 23 whereby she refuses to agree the contents of the index with the Respondent, refuses to include documents the Respondent requests in the bundle, and includes contents not relevant to the application, and 29. Refuses to include 1. Statement of cases, 2. Refuses to include Respondent's statement of case and documents despite explicit request, to include.

Directions dated 20 June 2025

- (15) The directions noted the bundle has been received from the Applicant and point 29 that it did not meet the requirements in the directions of 21 April 2025. The bundle was rejected. The Directions of the 21 April 2025 also stated "If the hearing bundle is not sent to the Tribunal by the said date or not in the required format, the Application will be struck out without further notice."
- (16) Judge Dobson noting "I am mindful that strike out now would end the case in a situation in which there could be debate about whether the requirements necessary to avoid a strike out had been fulfilled. Time and cost could be spent on arguing the point." The case was not struck out.

- (17) The Applicant was given until 24 June 2025 noon to supply a bundle in accordance with the directions. At paragraph 23 the directions stated the relevant documents to be included and that only the documents in the bundle shall be considered.

Case Management Application by Respondent dated 23 June 2025

- (18) The Respondent submitted on 23 June 2025 a case management application with attachment. The attachment listed 14 points.
- (19) The Applicant responded 24 June 2025 to the Respondent's case management application, asserting the final hearing bundle was submitted on time and in accordance with procedural requirements. Specifically, all documents listed under the 21 April 2025 Directions were included including both parties witness statements, exhibits both parties "witness statements" (including CS1-CS3), the tenancy agreement, rent proof and the CMA decision.
- (20) Additionally, the Respondent's Case Management Application dated 19 June 2025 has now been included. Further the "WhatsApp" messages and "without prejudice" letter cited by the Respondent have been removed from the updated bundle.
- (21) The Tribunal wrote to the parties on 30 June 2025 directing "the Tribunal has received an application for case management or other interim order from the Respondent dated 23 June 2025. The application dated 23 June 2025 requests strike out of the Applicant tenant's case on the grounds of failure to comply with the directions of 20 June 2025 which required the Applicant to prepare the bundle in accordance with the directions of the 21 April 2025. The Respondent has raised in the attachment to the case management application a 14-point document dated 23 June 2025. At point 9 it is suggested there is a "without prejudice" letter dated 5 June 2025. At point 11 it is suggested that there are a number of omissions in the Bundle. The Applicant is requested to revisit the Bundle removing any "without prejudice material" and including items that are suggested omitted at point 11. Given the minor nature of the administrative task and the hearing date, the Tribunal requests the revised bundle be with the Tribunal at 12:00pm on 1 July 2025 copied to the Respondent."

Case Management Application by Respondent dated 25 June 2025

- (22) The Respondent submitted on the 25 June 2025 a case management application accompanied by a supplementary sheet containing 11 points.
- (23) The Applicant on 25 June 2025 wrote to the Tribunal noting this was the Respondent's fifth case management application. The Applicant requested the Tribunal to reject the case management application and "proceed without further delay".

Adjournment of the Hearing of 3 July 2025

- (24) The Tribunal convened the hearing on Thursday 3 July 2025 at 10:00am. The Tribunal members were in the Justice Centre Havant; all other parties were remote connecting through the Tribunal's video platform. Present were the Applicant's representative Kerry Ann Barr, the Respondent Claire Shepherd and an observer Miles Covers. Miles Covers played no part in the hearing.
- (25) The Applicant's representative attended by video link and confirmed they were attending from within the UK. The observer attended by video link and were available with both video and sound also. The Respondent had attempted to join by video link but was unable to do so. In an attempt to allow the hearing to proceed the Tribunal requested the Respondent try to attend through telephone only. The signal was very poor, and the Tribunal only reached a reasonable sound quality on the third attempt. The Respondent confirmed they were in the UK. This had taken the Tribunal to around 11:00am.
- (26) Prior to the hearing commencing the Respondent had two preliminary issues. The first was the outstanding case management application of the 25 June 2025. The second was the assertion that a number of key documents the Respondent believed had been given to the Applicant, but the Applicant had not included. The Applicant stated the documents were in the bundle.
- (27) In order to expediate matters the Tribunal requested the Respondent locate the documents and then for them to be circulated by all parties. The tribunal allowed one hour to all parties 12:00pm for this. At 12:05pm the Respondent asked for more time and to be able to forward the documents individually. The Respondent had also noted that the hearing was booked to 13:00pm and they did not have capacity to extend.
- (28) The Tribunal was very conscious of the need for all parties to view the documents and to ascertain if they were or were not in the bundle. Consequently, the Tribunal deliberated, and the hearing was adjourned. deliberated and adjourned.
- (29) The Tribunal addresses the case management application of the 25 June 2025 in this adjournment and revised directions.
- (30) The Tribunal could not be certain without further arguments from the parties whether the bundle was complied with or not. The aborted hearing did not afford time to do this. The Tribunal determined therefore that the hearing be reconvened on Friday 25 July 2025 at the Havant Justice centre to enable smooth and uninterrupted proceedings.
- (31) By case management application the hearing was converted to a remote video hearing.

Hearing of 25 July 2025

Attendance at tribunal

- (32) Present at the tribunal were the Applicant's representative Kerry Ann Barr. The Applicant was not present. Rajen Dalal of counsel represented Willow Wood Homes Limited. Claire Shepherd Director of Willow Wood Homes Limited was present but not called. Additionally present was an observer, Ian Dunn.

Preliminary Matters

- (33) The Tribunal had before it two bundles, one from the Applicant of 364 pages and one from the respondent of 26 pages.
- (34) In the immediate days before the tribunal there had been a number of issues raised by the parties and these had been directed to be addressed as preliminary matters at the hearing.
- (35) The tribunal invited the parties to make submissions on their preliminary matters.
- (36) First the Applicant's representative raised three matters.
- (37) The first an issue of process, the Applicant being unfamiliar with the proceeding there was discussion on procedure, in particular cross examination. The Tribunal noted that the Respondent's representative was not calling the Respondent as witness and so clarification was given that cross examination of the Respondent's representative was not possible.
- (38) Second the inclusion in the Applicant's bundle of copies of tenancy agreements said to have been obtained after the date of submission of the bundle. These having been allegedly obtained direct from other occupants. The Respondent objected to their inclusion on the basis they were out of time and the directions had been very precise on the timetable.
- (39) The Tribunal mindful of the time already taken up by the case in the earlier adjourned hearing, the numerous case management applications, and the potential unfairness of acceptance of late evidence without the other party having time to respond, determined that there would be no discretion applied to the provisions of the direction. The documents whilst part of the bundle would not form part of the evidence considered by the tribunal.
- (40) Third, the Applicant objected to three sections of the Respondents 26-page, bundle on the basis it was out of time.
- (41) The Tribunal considered the contents of the Respondent's 26-page bundle and found it comprised, a set of authorities, the signed witness statement of the Respondent and a costs application.
- (42) The Tribunal determined in respect of the authorities, these are normally of the nature of material provided in a skeleton argument shortly before the hearing and so the tribunal allowed these.

- (43) In respect of the Respondent witness statement, it was understood from the Applicant that this had been provided to the Applicant previously, that is within time but not signed.
- (44) The Tribunal determined that whilst previously unsigned the Applicant would have been aware of the document so its inclusion in the Respondent bundle was not prejudicial.
- (45) Finally in terms of the costs application, the Tribunal determined that it was legitimate for the Respondent to make a costs application and that the Tribunal would hear submissions on this point at the end of the hearing.
- (46) The Respondent's Representative noting that the Applicant himself was not going to be called, informed the Tribunal that the Respondent therefore would not be called.

Submissions of the parties

1. The **Applicant's submission** initially focused on the allegation of owning and running an unlicensed House in Multiple Occupation. The Applicant referred the Tribunal to Applicants tenancy agreement and specifically various sections which at 2.15.9, 2.11.13, 2.11.12 and 2.11.11 which provided for the division of costs or responsibilities where the house was shared with other individuals.
2. For 2.15.9 "Where the property includes shared facilities to take proper care of the contents and leave shared areas clean and tidy, after use."
3. For 2.11.13 "Occupants to agree to be respectful of other occupants and behave in a cooperative manner towards each other aiming to resolve disputes by communicating with each other prior to contacting the landlord / representative."
4. For 2.11.12 "Only bikes that are in frequent use may be stored at the premises and must not be kept inside the house, nor in passageways, landings or blocking any exits as this poses a fire exit risk. Bikes must be kept in the shed or bike store (if any) and those bikes in permanent use take precedent over those in less frequent use."
5. For 2.11.11 "Not to obstruct the communal parts of the building or any shared facilities not to leave personal items in communal areas/ or dry clothes in corridors."
6. The Applicant's representative drew the Tribunal's attention to the Respondent's Case Management Application [220] that stated
 "An HMO licence was not required before the time an HMO licence was made:
 (a) During the Applicant's tenancy the property had four bedrooms. At the start of the Applicant's tenancy which were rented to three households, four persons."

7. The Applicant asserting from this, that under the Housing Act 2004 the threshold had been met for the presence of an HMO.
8. The bundle also contains an email from Nick Bartley of Bristol City Council [154] dated 9 January 2025. The email states “A licence application was received on the 25 September 2024 and so a rent repayment order can be claimed up to this date. In terms of evidence none would be required for this as if a claim is made for the property being an unlicensed HMO then it would be for the landlord to show that they had a licence which they will not be able to do as they did not.”
9. The Applicant then sought to make submissions on other areas of claim cited within the application, namely; failure to comply with an Improvement Notice, breach of quiet enjoyment, failure to disclose planned renovations prior to signing the tenancy, breach of unfair repair time.
10. The Respondent objected to the inclusion of submission on these grounds to support a claim for a Rent Repayment Order on the basis that the Directions of the 21 April 2025 had not provided for parties to submit evidence on them.
11. The Tribunal took a short adjournment to consider the issue.
12. The Tribunal considered the Direction of the 21 April 2025 in detail. The Directions provided at paragraph 7 “The Applicant states the property in question did not have an HMO licence”, paragraph 19 (ii) requests evidence from the local authority regarding the alleged absence of a licence. The Directions in respect of the requirements of the Respondent were limited to the response to the allegation of the operation of an unlicensed HMO.
13. The Tribunal found that no representations were made by the Applicant to alter the Directions of the 21 April 2025. The scope of the grounds set out in the Directions were limited to the allegation of operating an unlicensed HMO, and this was the ground the Respondent had been required by the Directions to respond to. To widen the grounds beyond that contained in the Direction would place the Respondent at a disadvantage having not been asked to provide evidence on this point. The Tribunal determined the hearing would continue limited to the ground of alleged operation of an unlicensed HMO only.
14. The Applicant was invited to make submissions on the extent of the Rent Repayment Order should the Tribunal decide, one should be granted.
15. The Applicant requested a rent repayment order of £1132.61 this is made up of 53 days of allegedly operating a HMO with no licence and a daily rate for the rent of £21.37. The rate of £21.37 is agreed by both parties.
16. The 53 days is derived from 6 August 2024 to the 25 September 2024. The first date being the date the City-Wide Additional Licensing Scheme

came into effect. The second date is the date of application for licence as evidenced by email from Bristol Council dated 2nd May 2025. [153]

17. The Respondent reminded the Tribunal the bar to which the evidence would be tested was that of criminal not civil balance of probabilities.
18. That the Respondent had not received any cautioned interviews by the local authority, they had no previous convictions, nor previous civil penalties.
19. That for an offence to be committed under the 2004 Housing Act there must be operation of a property requiring a HMO licence without a licence.
20. The Respondent asserts that no licence was needed as there would need to be 5 or more persons in occupation to trigger the need for a licence. That no evidence has been attested that 5 persons were in occupations.
21. That a summary of the Bristol schemes applicable to the house are set out in an email [129] from Jane Denning of Bristol City Council. The email dated 23 April 2025 stated "The area that this property is in would require an additional or mandatory licence, it is not in an area requiring a selective licence. Therefore, yes you are correct it needs a licence if it contains 3 or more persons from two or more households."
22. By email of 23 April 2024 from Jane Denning of Bristol City Council the Licensing authority notes that "we gave 3 months grace period after August 2024 to apply."
23. The Respondent submits that it is not sufficient to say that the presence of an assured shorthold tenancy amounts to occupation without further evidence, which has not been attested.
24. By letter from Bristol City Council (p 127) it noted that the Council introduced a new scheme on 31 July 2024 (p 127) for additional licensing. Bristol City Council stating that "Provided a licence application is made by 5 November 2024, we will not consider enforcement action in relation to the offence of operating an unlicensed HMO."
25. The Respondent's evidence is that the application was made by 5 November 2024. In fact it was made on the 25 September 2024.

Concluding statements and Application for costs

26. The Respondent gave a concluding statement and made an application for costs. The Respondent asserts that the application was misconstrued, vexatious and unreasonably made. That the Applicant failed to comply with directions, had objected to all the Respondent's case management applications, and put the Respondent to considerable unnecessary time and effort.

27. The Applicant similarly provided a concluding statement and objected to the costs and asserted that the Respondent had submitted numerous and unnecessary case management applications.

Decision

28. The Applicant claims a Rent Repayment Order for the period of time 6 August 2024 to 25 September 2024.
29. The Licensing requirements for the property as provided by Bristol City Council are that a license was required where 3 or more persons from two or more households were present.
30. The Applicant pointed to the provisions in the tenancy agreement that provided for division of service costs when the house is shared by more than one person.
31. These provisions within the tenancy agreement cannot without further evidence be determinative of the number of persons in the property.
32. The Tribunal has not seen any evidence that the property was occupied by more than one person during the period of the claim; 6 August 2024 to 25 September 2024.
33. In, consequence the Tribunal determines that no offence has been committed by having a property requiring a license.
34. The Tribunal therefore does not need to consider whether there was sufficient evidence to determine whether an application for a mandatory licence that would allow 5 or more persons to occupy, was made by 5 November 2024. The making of an application by this date would engage the licensing authorities grace period of no enforcement, of 3 months, back to 31 July 2024 and so negate any offence if the criteria for a licence had been reached.
35. Such a position if determined would also negate the claim period of 6 August 2024 to 25 September 2024.
36. The Tribunal therefore determines that a Rent Repayment Order should not be made.

Decision on costs

37. Rule 13(1)b: The law and relevant authorities.
38. The tribunal may make an order under Rule 13(1)b of the 2013 Rules if it is satisfied that a party has acted unreasonably in bringing defending or conducting proceedings.
39. In Willow Court Management Co v Alexander [2016] UKUT 290(LC) the Upper Tribunal declined to adopt a wider interpretation of 'unreasonable conduct' to encompass the conduct of a party who fails to

prepare adequately for a hearing, fails to adduce proper evidence in support of their case, fails to state their case clearly or seeks a wholly unrealistic or unachievable outcome and went on to observe at para 24;

‘An assessment of whether behaviour is unreasonable requires a value judgment on which views might differ but the standard of behaviour expected of parties in tribunal proceedings ought not to be set at an unrealistic level. We see no reason to depart from the guidance given in Ridehalgh at 232E, despite the slightly different context. “Unreasonable” conduct includes conduct which is vexatious and designed to harass the other side rather than advance the resolution of the case. It is not enough that the conduct leads in the event to an unsuccessful outcome. The test may be expressed in different ways. Would a reasonable person in the position of the party have conducted themselves in the manner complained of? Or Sir Thomas Bingham’s “acid test”: is there a reasonable explanation for the conduct complained of?’

40. In *Lea v GP Ilfracombe Management Company Ltd* [2024] EWCA Civ. 1241 the Court of Appeal defined the test as follows at paragraph 15;

“A good practical rule for the tribunal to consider is; would a reasonable person acting reasonably have acted in this way?”

41. At paragraph 28 of *Willow Court* the Upper Tribunal set out a three-stage approach which the Tribunal should adopt when considering whether to make an award of costs under Rule 13(1)b;

“At the first stage the question is whether a person has acted unreasonably. A decision that the conduct of a party has been unreasonable does not involve an exercise of discretion but rather the application of an objective standard of conduct to the facts of the case. If there is no reasonable explanation for the conduct complained of, the behaviour will properly be adjudged to be unreasonable, and the threshold for the making of an order will have been crossed. A discretionary power is then engaged and the decision maker moves to a second stage of the inquiry. At that second stage it is essential for the tribunal to consider whether, in the light of the unreasonable conduct it has found to have been demonstrated, it ought to make an order for costs or not; it is only if it decides that it should make an order that a third stage is reached when the question is what the terms of that order should be’.

42. At paragraph 43 Mr Martin Roger QC gave the following guidance on the approach which the Tribunal should take when considering such applications;

“We conclude this section of our decision by emphasising that such applications should not be regarded as routine, should not be abused to discourage access to the tribunal, and should not be allowed to become major disputes in their own right. They should be determined summarily, preferably without the need for a further hearing, and after

the parties have had the opportunity to make submissions. We consider that submissions are likely to be better framed in the light of the tribunal's decision, rather than in anticipation of it, and applications made at interim stages or before the decision is available should not be encouraged. The applicant for an order should be required to identify clearly and specifically the conduct relied on as unreasonable, and if the tribunal considers that there is a case to answer (but not otherwise) the respondent should be given the opportunity to respond to the criticisms made and to offer any explanation or mitigation. A decision to dismiss such an application can be explained briefly. A decision to award costs need not be lengthy and the underlying dispute can be taken as read. The decision should identify the conduct which the tribunal has found to be unreasonable, list the factors which have been taken into account in deciding that it is appropriate to make an order, and record the factors taken into account in deciding the form of the order and the sum to be paid.”

43. We do not consider that the grounds are arguable.
44. In any event the pursuit of an unrealistic outcome, if indeed it was unrealistic which was not entirely clear at the commencement, is not on its own to be considered evidence of unreasonable behaviour. The Applicant in terms of the objections to the respondent's case management applications merely sought to continue the proceedings which in itself is not unreasonable behaviour. In terms of the compliance with Directions the Applicant and their representative are essentially litigants in person and have sought and materially complied with the Directions.

In conclusion we do not consider that the conduct of the Respondent has been unreasonable within the meaning of s13(1)b of the 2013 Rules and we dismiss the application for costs.

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).