



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

Case reference : **LON/00BK/HMF/2023/0196**

Property : **12 Arden Crescent, London E14 9WA**

Applicant : **(1) Ms Severgnini
(2) Ms Ecsedi
(3) Ms Hae Won Kim**

Representative : **Mr Muhammed Williams, Tower
Hamlets Borough Council**

Respondent : **Mr Far Hor Chong**

Representative : **In person**

Type of application : **Application for a Rent Repayment Order**

Tribunal members : **Judge N O'Brien
Mr K Ridgeway MRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **4 September 2025**

**Date of
Determination** : **23 September 2025**

DECISION

Summary of the Decisions of the Tribunal

- (1) The Tribunal finds the Respondent has committed an offence under s.72(1) of the Housing Act 2004 between the period 2 February 2022 to 13 January 2023.
- (2) The tribunal makes rent repayment orders (RRO) in the following sums:

(1) Ms Severgnini:	£3,166.50
(2) Ms Ecsedi:	£2,387.67
(3) Ms Hae Won Kim:	£2,764.59
- (3) The Respondent is to reimburse the Applicants with the sum of £300 in respect of the application and hearing fees paid by them.
- (4) The Tribunal directs the Respondent to pay the said sums at (2) and (3) above within 28 days of the date of this decision being sent to the parties.

Introduction

1. This is an application under s.41 of the Housing and Planning Act 2016 by the Applicant tenants for rent repayment orders (RROs). The applications were received by the tribunal on 3 August 2023. They assert that the Respondent, their former landlord, committed an offence of controlling or managing an unlicensed HMO, contrary to s.72(1) of the Housing Act 2004, which was required to be licenced by the relevant local authority, the London Borough of Tower Hamlets (LBTH) under its Additional Licensing Scheme introduced with effect from 01/04/2019.
2. A RRO was made by this tribunal on 11 June 2024. The Respondent successfully appealed that decision to the Upper Tribunal (case ref LC-2024-554). The proceedings were remitted back to the First-tier Tribunal for a full redetermination. Further directions were issued for the redetermination on 24 April 2025, and the matter was listed for a final hearing on 4 September 2025.

The Hearing

3. Both the Applicants and the Respondent filed bundles for use at the original hearing. The directions of 25 April 2025 directed that those bundles would be used for the redetermination and directed that if either party wished to rely on additional evidence, they should make an application to the tribunal. No such application was made by any of the

parties to the application. Mr Chong told us that there were further documents that he sent to the Upper Tribunal when he lodged his appeal which he wished to rely on. He accepted that he had not made any application to rely on those documents in accordance with the directions dated 24 April 2025. We had no access to those documents in any event.

4. The First and Second Applicants attended the rehearing and were represented, as they had been previously, by Mr Mohammed Williams of the London Borough of Tower Hamlets. The Respondent attended the hearing with his wife. We considered the material included in the bundles which the parties filed for use at the first hearing. In addition we heard oral evidence from the First and Second Applicants, oral evidence from Mr Chong and oral submissions from both Mr Chong on his own behalf and from Mr Williams for the Applicants.

The Background

5. The property which is the subject of this application is a 4-bedroom terraced townhouse on the Isle of Dogs. The three applicants occupied individual en-suite bedrooms in the property, sharing the living room and kitchen, pursuant to individual tenancy agreements with differing start dates. The Respondent is the registered owner of the property and was the named landlord on each of the Applicants' tenancy agreements. A fourth person a Ms Pade entered into occupation at some point in May 2022.
6. The Applicants sought RROs for different periods.
 - (i) Ms Severgnini claims from 2 February 2022 to 13 January 2023 in the sum of £10,529.00 having occupied under an Agreement from 2 August at a rent of £925 per month.
 - (ii) Ms Ecsedi claims from an unspecified day in May 2022 to 13 January 2023, in the sum of £7,879.00 having occupied under an Agreement from 1 May 2022 at a rent of £925 per month which increased to £1,000 per month in November 2022 and to £1,250 in December 2022 until she left on 30 June 2023.
 - (iii) Ms Hae Won Kim from 1 April 2022 to 13 January 2023, in the sum of £9,104.00 under an Agreement which commenced 1 April 2022 at a rent of £950 per month which increased to £1,000 per month from November 2022 and £1,025 in December 2022 and moved out of the premises on 31 April 2023.

The Issues

7. The Respondent accepts the property was required to be licenced if at any time it was occupied by three or more persons forming two or more households but that it was not so licenced. The Respondent further accepts that for the entirety of the three periods for which each applicant seeks a RRO, the property required a licence and was not licenced, the

Respondent having submitted an HMO licence application to LBTH on 14 January 2023. He accepts that he managed and controlled the premises at all material times. The main issue in this case is whether the Respondent had a defence of having a reasonable excuse for not having a licence and so was not guilty of any offence during the relevant period.

The Relevant Law

8. The power of local authorities to designate particular areas as being subject to an additional licencing regime is contained in sections 56 to 60 of the 2004 Act. By virtue of s.72(1) of the 2004 Act a person commits an offence if they are in control of or manage a HMO which is required to be licenced by virtue of Part 2 of the Act but is not so licenced. In proceedings against a person for an offence under s72(1) of the 2004 Act it is a defence that he had a reasonable excuse for having control of managing the house without the required licence; s72(5)(a) of the 2004 Act.
9. Section 40 of the HPA 2016 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...*
 - (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.*
10. Section 41 of the HPA 2016 provides
 - (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.*
11. Section 43 of the HPA 2016 provides;
 - (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 section 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);*

Reasonable Excuse

12. In *Marigold v Wells [2023] UKUT 33 (LC)*, the Upper Tribunal considered that the guidance on the defence of reasonable excuse provided by the Tax and Chancery Tribunal in the case of *Perrin v HMRC* was relevant to the issue of reasonable defence in the context of licencing offences:

“48. The Tribunal in Perrin concluded its decision with some helpful guidance to the FTT, much of which is equally applicable in the sphere of property management and licensing. At paragraph 81 it said this:

"81. When considering a "reasonable excuse" defence, therefore, in our view the FTT can usefully approach matters in the following way Third, decide whether, viewed objectively, those proven facts do indeed amount to an objectively reasonable excuse for the default and the time when that objectively reasonable excuse ceased. In doing so, it should take into account the experience and other relevant attributes of the taxpayer and the situation in which the taxpayer found himself at the relevant time or times. It might assist the FTT, in this context, to ask itself the question "was what the taxpayer did (or omitted to do or believed) objectively reasonable for this taxpayer in those circumstances?"

49. The Tribunal then dealt with a particular point which is regularly encountered in HMO licensing cases and which therefore merits attention:

"82. One situation that can sometimes cause difficulties is when the taxpayer's asserted reasonable excuse is purely that he/she did not know of the particular requirement that has been shown to have been breached. It is a much-cited aphorism that "ignorance of the law is no excuse", and on occasion this has been given as a reason why the defence of reasonable excuse cannot be available in such circumstances. We see no basis for this argument. Some requirements of the law are well-known, simple and

straightforward but others are much less so. It will be a matter of judgment for the FTT in each case whether it was objectively reasonable for the particular taxpayer, in the circumstances of the case, to have been ignorant of the requirement in question, and for how long."

51. ... When considering for how long any reasonable excuse persisted, it may find the systematic approach described in Perrin provides a helpful framework".

13. The tribunal must consider whether the Respondent has a reasonable excuse whether or not he raises it as a defence. If it is raised by the Respondent the burden is on him or her to prove it to the civil standard (i.e. on the balance of probabilities) and not the criminal standard (beyond all reasonable doubt); see *Thurrock Council v Palm View Estates [2020] UKUT (LC) 355*.

The Parties' contentions

14. The Applicants accept that the Respondent applied for a licence on 14 January 2023 and that from that date no offence was committed.
15. The Respondent's case was that he had a reasonable excuse for not having applied for a licence before then and subsequently he was not guilty of any offence during the relevant periods. The Respondent owns 4 properties in LBTH which are let out on a room-by-room basis. None of them were subject to mandatory HMO licencing. In his witness statement he says that he was contacted by a HMO licencing officer in late 2019 who informed him that LBTH had introduced an additional licencing scheme on 1 April 2019. He explains that he did not apply for a licence in 2020 due to the COVID pandemic because there were only two tenants in each of his properties. He explains that at the start of 2021 he started to refill his empty rooms and in or about March 2021 either he or his agent started to collate the documentation required for the necessary HMO licence application in respect of all 4 properties. He created an online profile for each property in or about late April 2021 on LBHT's online licencing portal. He then spent some time carrying out remedial works to all 4 properties which he considered would be required in order for a HMO licence to be granted.
16. At paragraph 20-21 of his statement he says

At some point around late June/July 2021, I contacted the council Environmental Health number and asked to speak to an Additional Licensing officer whom(sic) could go through the applications online with myself before I pay for them. I informed the officer that I was anxious with one particular condition under the terms and conditions found on the

portal – It stipulated that the council could reject application and not refund any payment if any missing document is found to have been missed out from the application. I did not want to make avoidable mistakes on each of the 4 applications and wasting the fees

On the same call I told the officer that remediation works were almost complete and that I was ready to get my applications reviewed and paid for. It was at this point that the officer told me that there was a 9-12 month backlog on Additional HMO applications. The officer added that the application can only be reviewed when an officer had been assigned to the case. I told the officer that I wanted my pending application to be viewed as a valid application and asked to be placed in the queue to be reviewed. The officer took down the address ... and told me that she would pass the details to the Additional HMO team who would get in touch with me. She commented that the team is likely to prioritise the paid applications and she did not know when I would be contacted by the team. I asked the officer how my applications would be treated as in terms of compliance with the Additional licencing scheme whilst waiting for applications to be reviewed. The officer told me that the council would backdate the application to the date they receive the information. Hence my understanding was that I just have to wait for the council to get in touch when they are ready for inspection.

17. The Respondent's case essentially is that the above conversation led him to believe that his pending applications in respect of the four properties would be reviewed, that there was a 9-12 month backlog and that his pending application would be treated as sufficient compliance with the Additional licencing scheme pending the review. He states that in addition both he and his family had a number of health-related issues throughout 2022 and that this prevented him from pursuing the matter.
18. In his oral evidence he told us that the person with whom he spoke in July 2021 positively advised him not to complete the application or pay the fee and to wait until he had been contacted by the council. He additionally told us that he was not particularly concerned with the possibility that he might lose the £500 application fee but was more concerned that he would have to start all over again if his application was rejected for any reason. This is in contrast to his witness statement which indicates that he was unwilling to progress the application because he was concerned regarding potentially wasted fees.
19. Mr Williams of LBTH represents the Applicants in this case. LBTH has no trace of any HMO licence application being made in 2021. They rely on a written witness statement from a Ms Nana Arhin who confirms that there was no trace of any application from 2021. She considers

from the Respondent's description of what he did that it is likely that he started the application process by creating an on-line profile in the relevant application portal but did not complete the application or pay the fee. Her evidence is that if a pending application is not submitted within 90 days, the profile is deleted from the portal

20. There is no evidence that Mr Chong contacted the LBTH HMO licencing team again until January 2023, when he responded to a letter dated 12 December 2022 from the HMO Licencing team. The letter is included at page 122 of the Applicant's bundle and informed the Respondent that LBTH believed that he was managing an unlicensed HMO. Mr Chong emailed the sender of that letter on 10 January 2023. A copy of the email is included at page 131 of the Applicant's bundle. In the email the Respondent explains that he had been in communication with different licencing officers and was unclear about the difference between additional licencing and mandatory licencing and was considering applying for a mandatory licence for at least one of his properties. He does not in that email explain that he had not submitted an application because was waiting for LBTH to review the draft application already on the portal.
21. Included in the Respondent's bundle is an email from the Second Applicant dated 17 May 2023 regarding a proposed rent increase. She informed the Respondent that she had been informed by LBTH that the property required a licence and that it was not licenced. In his email in reply Mr Chong wrote;

'Unfortunately for me what you have told me now is correct and I realised that I have not kept up with some of the changes in the law in the last few years especially with HMO and Section 13 lately. I spoke to the council and a lawyer earlier and realised my own shortcomings. I am now convinced that the tremendous stress/multiple family issues have really gotten into me and took away my attention... I can only apologise for any inconvenience this may have caused.'

22. We do not consider that the Respondent has established that he had a reasonable excuse for not having a licence. Firstly we do not accept that he was told in July 2021 that he need do nothing further until contacted by the council or that he was told that his unsubmitted application would be treated as a validly submitted application in the interim. We consider that had he been given such a firm assurance by the council he would have mentioned it expressly when he was contacted by the council in December 2022 regarding the need for a HMO licence, and in May 2023 when the Second Applicant alerted him to the fact that she was aware of that the property had been an unlicensed HMO. On both occasions he makes no mention of any such assurance. We also consider that his account of the conversation has not been consistent. For example had he

been actively advised by LBTH not to submit the application or pay the fee, as he stated in his oral evidence, we would have expected him to include this in his witness statement.

23. We accept that there was a telephone conversation between the Respondent and the licencing department in or about June/July 2021, and we accept that the Respondent may have been told that his application would be referred for checking. Whatever his subjective understanding of the conversation may have been, in our view a reasonable landlord would not have let matters rest there for a further 18 months without following up. We do not consider that it was reasonable to enter into new tenancy agreements with the four occupants in 2022 without checking the licencing position with LBTH. We take into consideration the fact that the Respondent was distracted by health issues in 2022 but note that this did not prevent him from finding new tenants for the premises and entering into 3 tenancy agreements with each of the applicants.
25. Consequently we are not satisfied that the Respondent has established that he had a reasonable excuse for not having a licence for the period 2 February 2022 to 13 January 2023. We are satisfied that the offence was committed and that we should proceed to make a RRO.

Amount of RRO

26. In considering the amount of any RRO the tribunal had regard section 74(6) of the Housing Act 2004 which states:

In such a case the tribunal must, in particular, take into account the following matters—

(a) the total amount of relevant payments paid in connection with occupation of the HMO during any period during which it appears to the tribunal that an offence was being committed by the appropriate person in relation to the HMO under section 72(1);

(b) the extent to which that total amount—

(i) consisted of, or derived from, payments of relevant awards of universal credit or housing benefit, and

(ii) was actually received by the appropriate person;

(c) whether the appropriate person has at any time been convicted of an offence under section 72(1) in relation to the HMO;

(d)the conduct and financial circumstances of the appropriate person; and

(e)where the application is made by an occupier, the conduct of the occupier.

27. In ***Acheampong v Roman [2022]*** the Upper Tribunal established a four-stage approach which this Tribunal must adopt when assessing the amount of any order (at paragraph 20):

- 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 is expected to make an informed estimate where appropriate.
- 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 percentage of the total amount applied for is then the starting point (in the sense 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)."

28. In the course of the hearing the parties were able to agree the maximum RRO which could be made in respect of each of the Applicants, with the Applicants giving appropriate credit for the sums paid by the Respondent in respect of bills benefiting the tenants in accordance with the schedule which appears in the Respondent's bundle at page 455. The Respondent accepted that he asked the Applicants to each contribute an additional £117.34 each in or about December 2022 to take account of increased heating costs. The maximum RRO which can be made in respect of each applicant is therefore;

- (i) Ms Severgnini -£9047.13
- (ii) Ms Ecsedi -£6829.10
- (iii) Ms Hae Won Kim- £7898.83

29. We note that there were disagreements between the Applicants and the Respondent as regards the operation of the central heating system in the property. In addition we note that the applicants were concerned that Mr Chong did not give proper notice of his intention to enter the property on a small number of occasions. We do not consider any of conduct issues raised were sufficiently serious be relevant to the amount of a RRO. As regards the seriousness of the offence. we bear in mind that this is a licencing offence which falls at the lower end of the offences for which a RRO can be made in terms of seriousness. In addition we bear in mind the fact that, as Mr Williams accepted, had Mr Chong submitted his application in June 2021, it is likely that he would have been granted a licence without any difficulty; he had done all he needed to do save for submitting the application and paying the fee. The offence appears to have been committed over a period of about 12 months which is not particularly long.

30. In terms of the financial circumstances of the Respondent, Mr Chong told us that he had just returned to work following a prolonged absence due to illness. He was unclear as to what his taxable profit is from renting out his properties but that his gross rental turnover is £15,000 per month. He submitted that any RRO should not exceed 20% of the maximum. Mr Williams urged us to make an order of 75% of the maximum.

31. We consider that an order of 35% of the maximum is appropriate in all the circumstances in respect of each applicant. We consider that the fact that Mr Chong had done all he needed to do to obtain a licence save for submitting the application and paying the fee amounts to significant mitigation in this case.

32. The tribunal also make an award of £300 for reimbursement by the respondent to the applicants for the application and hearing fees. This sum and the sums at paragraph 13 above are to pay to the applicants within 28 days of this decision being sent to the parties.

Name: Judge O'Brien

Date: 25 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).