



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

Case Reference : **LON/00AG/HMF/2025/0703**

Property : **4 Carters Close, Torriano Avenue,
London NW5 2ST**

Applicant : **Benjamin Chaumont**

Representative : **Edward Phillips, Justice for Tenants**

Respondent : **London Living Group**

Representative : **Alvaro Odeh-Torro**

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

Tribunal Members : **Tribunal Judge H Lumby
Mrs L Crane CEnvH MCIEH**

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

Date of Hearing : **22nd September 2025**

Date of Decision : **2nd October 2025**

DECISION

Decisions of the tribunal

- (1) The tribunal orders the Respondent to repay to the Applicant the sum of £802.17 by way of rent repayment, such repayment to be made within 28 days of the date of this decision.
- (2) The tribunal also orders the Respondent to reimburse to the Applicant 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 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"**).
2. The basis for the application is that the Respondent were controlling and/or managing an unlicensed HMO which was required to be licenced under Part 2 of the Housing Act 2004 (**"the 2004 Act"**) at a time when it was let to the Applicant but was not so licensed and that they were therefore committing an offence under section 72(1) of the 2004 Act.
3. The Applicant's claim is for repayment of rent paid during the period from 17 May 2024 to 16 October 2024, amounting to £5,500.
4. The Property comprises a three bedroom ground floor flat with communal kitchen and bathroom facilities. The bedrooms are referred to Room 1, 2 and 3. The Applicant occupied Room 3 from 17 May 2024 to 16 October 2024; he says this was a former sitting room.
5. The tribunal was provided with a bundle by the Applicant running to 94 pages, a further bundle by the Respondent consisting of 18 pages and a reply bundle by the Applicant of a further 36 pages. The contents of all these documents were noted by the tribunal.
6. The Applicant had also applied for further documents to be considered, comprising a rent statement from the superior landlord's agents (Chestertons) to Sarah Osgersby, who is the superior landlord, a 13 page mini bundle comprising adverts for Room 3 at the Property, WhatsApp exchanges, a transcript and a recording. The statement from Chestertons was not relevant and so its late admission was refused. The Respondent did not object to the mini bundle being admitted so this was agreed. The audio recording did not add anything so its admissions was refused.
7. The Applicant in addition had made an application for an order for all undisclosed licences and tenancy agreements relating to the relevant

period to be disclosed. The Respondent said there were none. The Applicant was given the choice of a postponement for the order to be complied with or proceeding in any event. On the basis that the Respondent had said there were no such documents that not been disclosed, the Applicant said that there was no point postponing the hearing and so withdrew the application.

8. The hearing was held in person. Mr Phillips appeared for the Applicant, who also was present and gave evidence. Mr Harry Lawrence also gave evidence for the Applicant. Mr Odeh-Torro appeared for the Respondent. There were three observers, including Ms Osgerby, the superior landlord.

Respondents

9. The Applicant had brought his case against both the Respondent and Mr Odeh-Torro, who was at the time a director of the Respondent. Mr Phillips agreed that the Respondent was the correct respondent and so there was no objection to the removal of Mr Odeh-Torro as a respondent. This was explained to Mr Odeh-Torro who agreed to his removal as a party.
10. The tribunal therefore determined that Mr Odeh-Torro should be removed as a respondent.
11. Mr Odeh-Torro explained that he was now the office manager for the Respondent and was authorised to represent it at this hearing.

Relevant statutory provisions

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

Alleged Offence

Harassment and unlawful eviction

13. The Applicant had suggested in its application that the Respondent had committed offences of harassment and unlawful eviction. Having considered the bundles provided, there was nothing to support this suggestion. As a result, the tribunal determined that these offences had not been committed and these were not considered further as offences. However, the allegations were taken into account in assessing the Respondent's conduct when determining the amount of the rent repayment order.

Licensing of HMOs

14. The Respondent had the benefit of a lease of the Property at all relevant times from Ms Osgerby, its owner. The Respondent paid Ms Osgerby a fixed monthly rent. It in turn let out rooms in the Property. It is accepted that the Respondent managed and controlled the Property for the purposes of the 2004 Act. The amounts the Applicant say that he paid during the term is not disputed by the Respondent.
15. The Applicant argues that the Property was an unlicensed HMO on the basis that it was rented to three or more people who form more than one household during the relevant period (being 17 May 2024 to 16 October 2024). It is accepted that three or more people in the house forming more than one household would have required an HMO licence and that there was no licence throughout that period. However, the Respondent argues that Room 1 was never occupied during that period, pointing to the Applicant's own evidence that shows it empty.
16. The Tribunal considered that it should establish as a preliminary issue whether it was satisfied beyond all reasonable doubt whether there was occupation by three or more persons forming more than one household at any point in the relevant period and if so when. If not satisfied in relation to any date, there could be no offence. An offence could only occur when there was occupation by three or more persons forming more than one household.
17. The tribunal heard evidence from the Applicant, Mr Lawrence and Mr Odeh-Torro.
18. The Applicant said that he moved into Room 3 at the Property on 17 May 2024 and left on 16 October 2024; he had served notice to leave on 16 September but was given a one month extension. He argued that Room 1 was occupied by a man called Mo until the end of July 2024. After a gap, he said an unnamed woman occupied Room 1 from an unspecified date in August 2024 until the end of September 2024. He said that Room 2 was occupied by someone called Christina when he moved in; she left on 24 June 2024 and was replaced by someone called Miles from 8 July 2024 until mid-September 2024. He accepted that there were not three occupants from 16 September 2024. Mr Lawrence confirmed that Room 1 was occupied initially by Mo and later by the unnamed woman but did not specify dates for occupation.
19. Mr Phillips in submissions pointed to the adverts contained in the mini-bundle as evidence of the occupation of Mo and Christina when the Applicant moved in on 17 May 2024. He also referred to a WhatsApp message from Chelsea McIlvanna of the Respondent referring to the occupant of Room 1 as a long term resident. Mr Odeh-Torro insisted that there were only ever two occupiers.

20. The tribunal considered this evidence. It was clear that there were less than three occupiers between 24 June 2024 and 8 July 2024 (the gap in relation to Room 2 between Christina and Miles). It was also clear that there were less than three occupiers from 16 September 2024. The issue for the tribunal was therefore whether there were at least three occupiers forming more than one household from 17 May 2024 to 24 June 2024 and from 8 July 2024 until 16 September 2024. The tribunal needed to be satisfied beyond all reasonable doubt (the so called criminal standard required to show an offence had occurred).
21. The tribunal began with the period 17 May 2024 to 24 June 2024. Based on the evidence heard and the adverts, it was satisfied beyond all reasonable that Room 1 was occupied by Mo throughout that period, that Room 2 was occupied by Christina and Room 3 by the Applicant. It was also satisfied beyond all reasonable doubt that the three occupiers formed separate households.
22. It then turned to the period from 8 July 2024 to 16 September 2024. The tribunal was satisfied that both Rooms 2 and 3 were occupied during that period. However, there is insufficient evidence to confirm when Mo left or any dates that the woman said to have replaced him when was in occupation. Accordingly, it cannot identify any dates when it is satisfied beyond reasonable doubt there were three people in occupation.
23. Accordingly, the tribunal determines that the Property was occupied by three people forming separate households between 17 May 2024 and 24 June 2024.
24. It therefore determines that it is satisfied beyond all reasonable doubt that the Respondent was controlling and/or managing an unlicensed HMO which was required to be licenced under Part 2 of the 2004 Act but was not so licensed between 17 May 2024 and 24 June 2024 and that it was therefore committing an offence under section 72 (1) of the 2004 Act during that period.

Reasonable excuse

25. 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.
26. The Respondent did not offer any form of excuse and the tribunal does not consider that they have any such excuse.
27. As a result, the tribunal finds that the Respondent does not have a reasonable excuse to the offence.

Consideration of grounds

28. The tribunal has determined that the Respondent committed an offence under section 72 (1) of the 2004 Act throughout the relevant period. The tribunal is satisfied beyond all reasonable doubt that the offence was committed and that the relevant dates when the offence was committed for these purposes were between 17 May 2024 and 24 June 2024.

Rent Repayment Order

29. Section 43 of the 2016 Act provides that where a tribunal is satisfied beyond reasonable doubt that a landlord has committed a relevant offence, it may make a rent repayment order. The tribunal does therefore have a discretion as to whether to make an order although it has been established that it would be exceptional not to make a rent repayment order (*Wilson v Campbell* [2019] UKUT 363 (LC)).
30. In this case, the tribunal is satisfied beyond reasonable doubt that an offence has been committed and that there is no reasonable excuse for the offence. It does not consider that there are any exceptional circumstances preventing it making an order and therefore determines that a rent repayment order should be made.

Submissions on amount of order

31. Having determined that a rent repayment order should be made, the tribunal next considered what the amount of such order should be.
32. The Applicant argues that this is a repeat offence, the Respondent having been convicted of similar offences in respect of two other properties; the legislation is seeking to deter such offences and so its repetition is an important factor. He also points to purported bad conduct by the Respondent, including entry without consent, harassment when on holiday, attempting to force him to sign a deed of surrender, using sham agreements in an attempt to pass them off as licences and a refusal to fit a lock on his bedroom door. He says this had a major impact on him.
33. The Respondent made no submissions on the amount but promised to investigate the occupation of Room 1. They also provided no evidence of financial circumstances or submissions on these.

Method of assessing amount of order

34. Section 46 of the 2016 Act specifies circumstances where a tribunal is obliged to make a rent repayment order in the maximum amount (subject to exception circumstances). These do not apply where the tenant is seeking to rely on offences under section 72(1) of the 2004 Act,

as is the case here. The tribunal therefore has discretion as to the percentage of the rent it can order be repaid.

35. Section 44 of the 2016 Act specifies the factors that a tribunal must take into account in making a rent repayment order. This has been qualified by the Upper Tribunal in guidance given in the case of *Acheampong v Roman* [2022] UKUT 239. That guidance is summarised as follows:

- (i) ascertain the whole of the rent for the relevant period;
- (ii) subtract any element of that sum that represents payment for utilities that only benefited the tenant, e.g. gas, electricity and internet access;
- (iii) consider how serious the 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?
- (iv) finally, 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), namely the matters the tribunal must 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 identified in the table at section 45 of the 2016 Act.

Tribunal assessment of amount of order

36. The tribunal has followed the guidance in *Acheampong v Roman* set out above.
37. The Applicant's claim is for £5,500, which he says is all the rent paid by him for the period 17 May 2024 to 16 October 2024. As referred to above, the tribunal has found that the offence was only committed between 17 May 2024 and 24 June 2024, amounting to 39 days. The rent for this period was calculated by Mr Phillips as amounting to £1,410.41; the

tribunal agrees with this calculation. Mr Odeh-Torro confirmed that the rent had been paid. The starting point is therefore £1,410.41.

38. It was agreed that the rent paid was inclusive of utilities. No evidence of the actual utilities costs has been provided and Mr Odeh-Torro suggested they amounted to 20 percent of the rent. Mr Phillips argued that without evidence of actual costs, the deduction for utilities should be negligible. Based on its review of the rent and experience of utilities costs, the tribunal determined that an apportionment of 12.5 percent was appropriate. This made the net rent for the relevant period £1,234.11.
39. The Applicant confirmed that he had not received universal credit during any part of the relevant period. References in the file to universal credit related to 2025. Accordingly, no deduction or allocation is required in relation to universal credit.
40. The tribunal did not consider that the offence was a serious one when compared to the other offences in respect of which a rent repayment order could be made. From the photographs and video provided, the Property appeared in good condition and no health and safety issues had been raised.
41. The tribunal considered the conduct of the Respondent. We consider the repeat offence below. In addition, the Applicant argued that he had been harassed by Chelsea Mcilvanney of the Respondent by visiting without consent and in relation to his friend using his room whilst he was on holiday. He also pointed to the process around his departure which he said amounted to an unlawful eviction. He also complained about the failure to fit a bedroom door lock and the form of licence used. The tribunal considered the Applicant's witness statement and the accompanying evidence referred to, including email and WhatsApp correspondence with the Respondent. The tribunal considers that these show the Respondent doing its job in a professional and patient manner; it finds, to the contrary, that the Applicant's tone and approach was more aggressive and inappropriate. It therefore finds that no issues with the Respondent's conduct in relation to the issues raised.
42. All of these factors would tend in the normal course towards a large discount being appropriate here.
43. The tribunal noted that there had been no question raised of misconduct by the Applicant and concluded that it was therefore inappropriate to make any adjustments as a consequence.
44. No evidence was received or submissions made in relation to the Respondent's financial circumstances. The tribunal therefore concluded that no adjustments for their financial circumstances were appropriate.

45. The tribunal did however note that the Respondent had previously twice been convicted of an offence identified in the table in section 45 of the 2016 Act (which is set out in the Schedule to this decision). These were both similarly offences pursuant to section 72 of the 2004 Act. The tribunal considered that a large discount was therefore not appropriate and this would need to be balanced against the factors mentioned above.
46. Taking all these factors into account, the tribunal determined that the amount payable by the Respondent should be reduced by 35%, leaving the amount to be repaid as £802.17.

Tribunal determination

47. The tribunal determines that it is satisfied beyond all reasonable doubt that the Respondent were managing a house which was required to be licenced under Part 2 of the 2004 Act but was not so licensed between 17 May 2024 and 24 June 2025 and that they were therefore committing an offence under section 72(1) of the 2004 Act during that period. It also determines that the Respondent had no reasonable excuse for that offence.
48. The tribunal has determined that it should make a rent repayment order in respect of that offence and has calculated the amount of that order as £802.17.
49. Accordingly, the tribunal orders the Respondent to repay to the Applicant the sum of £802.17 by way of rent repayment, such repayment to be made within 28 days of the date of this decision.

Cost applications

50. The Applicant 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.
51. As the Applicant have been successful in this claim, the tribunal is satisfied that reimbursement of these fees should be made.
52. The tribunal therefore orders the Respondent to reimburse to the Applicant 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.

Name: Judge H Lumby

Date: 2 October 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).

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 72

- (1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part ... but is not so licensed.
- (4) In proceedings against a person for an offence under subsection (1) ... it is a defence that he had a reasonable excuse ... for having control of or managing the house in the circumstances mentioned in subsection (1)

Section 263

- (1) In this Act “person having control”, in relation to the 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.

(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 ...

(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