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

Case reference	:	**CAM/42UD/HTC/2025/0004**
Property	:	**23 All Saints Road, Ipswich, IP1 4DG**
Applicant	:	**Joyce Jacob**
Respondent	:	**Usher Mann**
Tribunal members	:	**Judge Adcock-Jones**
Date of decision	:	**01 September 2025**

DECISION

Decision

1. The application for an order for the recovery of a prohibited payment/holding deposit paid in respect of a tenancy of 23 All Saints Road, Ipswich, IP1 4DG (hereinafter referred to as "the Property") is struck out.

Procedural Background

1. The application was made by Joyce Jacob under section 15(3) of the Tenant Fees Act 2019 (the "Act") for the return of a holding deposit of £5,800.00 paid to the Respondent in two lump sum payments of £2,900.00 on 11 and 17 April 2024.

2. The Tribunal gave directions on 16 June 2025 providing for the parties to exchange case documents and the matter to be determined on the papers unless either party made a request for a hearing by 14 July 2025 or the tribunal, having reviewed the papers, considered that a hearing was required. No such request was made, and the Tribunal considers that a hearing is not necessary to determine this case fairly and justly.

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The Law

3. Section 3 of the Act defines a "*holding deposit*" as money paid by or on behalf of a tenant to a landlord or letting agent before the grant of a tenancy with the intention that it should be dealt with by the landlord or letting agent in accordance with Schedule 2 to the Act. Subject to the conditions set out in section 3 and to the extent it does not exceed one week's rent, such a holding deposit is a permitted payment (so is not prohibited entirely by section 1 or 2 of the Act).

4. Schedule 2 applies where a holding deposit is paid to a landlord or letting agent in respect of a proposed tenancy of housing in England. It defines the "*deadline for agreement*" as: "*the fifteenth day of the period beginning with the day on which the landlord or letting agent receives the holding deposit*" or the day "*agreed with the tenant in writing*" as the deadline for agreement for the purposes of Schedule 2.

5. By paragraph 3(c) of Schedule 2, subject to the following provisions of Schedule 2, the person who received the holding deposit must repay it if (amongst other things) the landlord and the tenant fail to enter into a tenancy agreement relating to the housing before the deadline for agreement. This repayment obligation does not apply:

    a. under paragraph 9, if the tenant provides false or misleading information to the landlord or letting agent and one of the conditions set out in 9(a) or (b) applies;

    b. under paragraph 10, subject to paragraph 13 (described later in this decision), if the tenant notifies the landlord or letting agent before the deadline for agreement that the tenant has decided not to enter into a tenancy agreement; or

    c. under paragraph 12, subject to paragraph 13, if: (a) the agent takes all reasonable steps to assist the landlord to enter into a tenancy agreement before the deadline for agreement; and (b) the landlord takes all reasonable steps to enter into a tenancy agreement before that date, but (c) the tenant fails to take all reasonable steps to enter into a tenancy agreement before that date.

6. Further, by paragraph 5 of Schedule 2, the person who received the holding deposit must repay it if: (a) they believe that any of paragraphs 8 to 12 applies in relation to the deposit, but (b) they do not give the person who paid the deposit notice in writing within the relevant period explaining why the person who received it intends not to pay it. Here, the "*relevant period*" means the period of seven days beginning with the deadline for agreement.

7. By section 15(2) of the Act, where a landlord or letting agent breaches Schedule 2 to the Act in relation to a holding deposit paid by a relevant person and all or part of the holding deposit has not been repaid to the relevant person, subsection (3) applies. By subsection (3), the relevant

person may apply to the Tribunal for recovery from the landlord or letting agent of the amount of the holding deposit (or, if this has been partially repaid, the remaining part of the holding deposit). By subsection (9), on such an application, the Tribunal "*may*" order the landlord or letting agent to pay to the relevant person "*…all or any part…*" of the amount referred to in subsection (3) within the period (of at least seven days but not more than 14 days) specified in the order.

The Applicant's case

8. The Applicant stated in her application form that they were asked to pay a holding deposit of £2,900.00 for outstanding work required in the Property. The Respondent asked for another payment of £2900.00 and both payments were made before a lease agreement was signed pending the outstanding work to be completed.

9. On the 16 April 2024, the Applicant asked the Respondent to send her the HMO licence for the Property as this would be needed for her to complete her Certificate of Use application to the local authority.

10. The Respondent sent her the HMO licence but it had expired in August 2023 which she had not been made aware of during her initial discussions with the Respondent. The Applicant contended that the Respondent had been aware that the Applicant needed the HMO licence so she considered that he misrepresented himself.

11. Upon her further inquiry, the Respondent made an application for a further HMO licence but could not say when this would be provided. On 28 May 2024, the HMO certificate was still not ready and outstanding work was not completed at a good enough standard. The Applicant contacted the Respondent to inform him that she would not be going ahead with the leasing of the Property and asked him to show her another property with the same specification but she did not receive anything by return. She set out in her application that she made several requests by calls and emails for a refund of the £5,800.00 paid.

12. Despite further calls and texts exchanged to recover the money paid, the Respondent ultimately told the Applicant that she would "Never" receive a refund.

13. The Tribunal notes that the Applicant refers to emails attached to her application, and despite instruction in the application at box 4 for the Applicant to provide documents in support of the application and further provision in the directions for the Applicant to send a brief reply to the Tribunal by 21st July 2025, no further documents have been provided.

The Respondent's case

14. The Respondent initially raises a jurisdictional objection arguing that this was not a tenancy granted to an individual and avers it was a company let and

therefore falls outside of the scope of the Act. The Respondent therefore invites the Tribunal to strike out the application accordingly.

15. In the alternative, the Respondent argues that the payment of £5,800.00 was entirely reasonable and justified due to substantial financial losses he incurred preparing the Property for the tenancy. He provided a breakdown for these totalling £13,438.00. The Respondent states that the works undertaken were in anticipation of a confirmed agreement and the Applicant acting through the company failed to proceed resulting in significant financial loss. He therefore contends that this would justify the retention of the £5,800.00.

16. In respect of the jurisdictional issue, the Respondent stated that both payments were made on behalf of Strides Childcare Service Limited per the receipts of the 11 and 17 April 2024.

17. Turning to the HMO licence, the Respondent contended that he submitted a renewal application on 16 April 2024 and sent an e-mail confirming this submission to the Applicant on the same day and a copy of the application confirmation has been provided to the Tribunal.

18. The Property was made ready to the standard expected at significant cost incurred to tailor to the Applicant's business needs and the Applicant did not at any time express a clear withdrawal until much later by which time the expenses had already been expended.

19. The Respondent denied any allegation that he confirmed that a refund would be made and instead he explained that the money had already been used for bespoke preparation work and the Property was not re-let as claimed and there was a void period following the Applicant's withdrawal.

20. In respect of the works undertaken to the Property, these were not generic but based on Ofsted requirements raised by the Applicant operating a children's home. The Respondent referred to e-mail correspondence in support of this dated 23 and 24 of June 2024. The Respondent contended that the true reason which the Applicant informed him over the phone as to why she could not proceed was that the local authority requested that for her to proceed with her business she had to have parking for three cars.

21. The Respondent has provided an invoice dated 8 May 2024 from Woodberry Maintenance, totalling £10,438.00, a copy of the HMO licence application under reference EHG606246034 and 16 April 2024, a copy forwarding this to the Applicant by way of e-mail on the same date at 3:10 PM, a rental repayment receipt from Honeywood Estate Property Services which records payment being made by Strides Childcare Service Limited dated 11 April 2024 and a further rental payment receipt made by the same company on 17 April 2024. The Tribunal has also been referred by the Respondent to e-mail correspondence exchanged between the parties between 28 May 2024 to 24 June 2024.

Reply

22. As noted above, the Applicant did not provide a reply.

Strike out of the Application

23. Upon reading the papers on 28 July 2025, the Tribunal was concerned that the parties to the Application are two individuals; however, the papers indicated that the agreement to which a holding deposit related was between Strides Childcare Services Ltd (Tenant) and Honeywood Estate Services Ltd (Landlord).

24. The deposit receipts also showed that the sums paid were made by the tenant company to the landlord company.

25. The Tribunal notes that a "relevant person" under section 1(9)(b) of the Tenant Fees Act 2019 could be a party making a payment on behalf of a tenant, although it was not suggested in the papers that the payments were made on behalf of an individual.

26. It therefore appeared that the property was to be let out as a children's home by the tenant company rather than as under a tenancy to which section 28 of the Tenant Fees Act 2019 applied. The Tribunal was therefore minded to strike out the Application.

27. On 28 July 2025, the Tribunal wrote to the parties setting out the above concerns and referred to Rule 9(4) of The Tribunal Procedure (First tier Tribunal) (Property Chamber) Rules 2013, which provides for the parties to be given an opportunity to make representations in relation to the proposed striking out of the application.

28. Accordingly, the parties had until 4pm on 12 August 2025 to file with the Tribunal and serve upon each other any written submissions relating only to the correct entities to the proposed tenancy and therefore confirming the correct entities to the Application and whether the proposed tenancy would fall within the definition of an applicable "tenancy" as defined within section 28 of the Tenant Fees Act 2019. No response, further submissions or further evidence was provided by either party.

Conclusion

29. In such circumstances, given that the Application appears to have been brought by an incorrect tenant entity against an incorrect respondent entity and that the proposed tenancy does not appear to have been one to which the Tenant Fees Act 2019 applies, the Tribunal has decided to strike out the Application.

Name:	**Judge Adcock-Jones**	**Date:**	**01 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).