



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

Case reference : **CAM/00KF/HMJ/2025/0003**

Property : **24b St Leonards Road,
Southend-on-Sea, Essex SS1 2HG**

Applicant : **Opia Hamadi**

Representative : **Mr J. Cairns, Justice for Tenants**

Respondent : **1. Isaac Gee
2. Pinkerton Investments Limited**

Representative : **Unrepresented**

Type of application : **Application for Rent Repayment Order
under section 41 Housing and Planning
Act 2016**

Tribunal members : **Judge K. Saward
Mr J. Francis QPM**

Date of hearing : **28 August 2025**

Date of decision : **16 September 2025**

DECISION AND REASONS

Decisions of the Tribunal

- (1) The Tribunal is satisfied beyond reasonable doubt that the Second Respondent committed an offence under section 95(1) of the Housing Act 2004 (“the 2004 Act”).
- (2) The Tribunal has determined that it is appropriate to make a rent repayment order (“RRO”).
- (3) The Tribunal makes a RRO against the Second Respondent in favour of the Applicant in the sum of £165.00 to be paid within 28 days of this Decision.
- (4) The Tribunal makes an order under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 that the Second Respondent shall pay to the Applicant £330 within 28 days of this Decision, in reimbursement of the Tribunal fees paid by the Applicant.

REASONS

The application

1. By an application dated 19 September 2024, the Applicant applied for a RRO under section 41 of the Housing and Planning Act 2016 (“the 2016 Act”). The Applicant is a former tenant who rented a flat at 24b St Leonards Road, Southend-on-Sea (“the Property”).
2. It is claimed that the Respondents committed an offence under section 95(1) of the 2004 Act of having control or managing a house which was not licensed as required by a selective licensing designation. As far as the Applicant is aware, neither Respondent has been convicted for such an offence in respect of the Property.
3. The Applicant sought a RRO for a sum of £9,400 said to be the total rent paid by her for the Property during the period 8 September 2022 to 7 September 2023.

Preliminary matters

4. Case management directions were issued by the Tribunal on 2 April 2025. They required the parties to submit bundles of documents for the hearing. The Applicant produced a paginated bundle. Shortly before the hearing, Mr Cairns submitted a skeleton argument including copies of caselaw. Neither Respondent produced any documents prior to the hearing, nor did they respond to the Tribunal’s communications.

The hearing

5. The hearing took place remotely using the CVP platform. The Applicant was represented by Mr Cairns of Tenants For Justice. Ms Hamadi also attended and answered questions from the Tribunal.
6. No-one for the Respondents appeared. They had not notified the Tribunal in advance of their intention not to attend. Furthermore, there was no explanation for non-compliance with the Tribunal's Directions.
7. Notice of hearing was sent by first-class post on 13 August 2025 to the Second Respondent at its recorded registered office address and to the First Respondent at the address given in the tenancy agreement.
8. In addition, by letter sent on 15 August 2025, both Respondents were alerted to their non-compliance with the Tribunal's case management directions. They were directed to notify the Tribunal by no later than 4pm on 21 August 2025 whether they proposed to attend or be represented at the hearing. At the same time, the Respondents were placed on notice that if they did not attend the hearing, the Tribunal may proceed in their absence pursuant to Rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules") and reach a decision on the issues arising in the application. Again, no response was received.
9. Under Rule 34 the Tribunal may proceed with the hearing in a party's absence if satisfied that the party has been notified of the hearing, or that reasonable steps have been taken to notify the party of the hearing, and it is in the interests of justice to proceed.
10. Mr Cairns drew the Tribunal's attention to documents connected with the proceedings having been sent by the Applicant to the Respondents at three addresses, including the registered office address and address in the tenancy agreement. None of the post had been returned to sender. Emails had also been sent to Mr Gee at the address from which he had communicated with the Applicant. No emails had "bounced back".
11. Having noted the steps taken by the Applicant's representative and the Tribunal's own communications, the Tribunal was satisfied that reasonable steps had been taken to notify both Respondents of the hearing. Mr Cairns confirmed the Applicant's wish to proceed. Rules 3(2)(a) and 3(2)(e) provide that the Tribunal must deal with cases proportionately and avoiding delay. With this in mind, the Tribunal was satisfied that it was in the interests of justice to proceed.
12. As no-one appeared for the Respondents, the Tribunal took a proactive approach in posing various questions to the Applicant and challenging the submissions made by their representative. Early in the hearing the

Tribunal queried the assertion that the Applicant “was not in receipt of a housing element of Universal Credit or Housing Benefit”. This appeared surprising given that the Applicant’s bank statements produced showed monthly receipts from the DWP for Universal Credit during the period for which a RRO is claimed. Despite a number of adjournments, the Applicant was unable to access her Universal Credit account to provide clarification.

13. By virtue of section 44(3) of the 2016 Act, any relevant award of universal credit paid in respect of rent under the tenancy during the relevant period must be deducted from the amount of an RRO. The importance of this point led the Tribunal to issue directions at the hearing for the Applicant to provide the required information on Universal Credit within 7 days. The Respondents were given a further 7 days to provide any reply.
14. In response, the Tribunal was notified that the Applicant was unable to provide the required Universal Credit statements. However, Justice For Tenants were able to calculate the element of rent from the Government published amounts. This revealed that of the £9,400 originally claimed, only £220 was privately paid rent available to be claimed as a RRO. Details of the calculations have been provided and appear to be accurate.

The Property and its occupation

15. The Property is described as a ground-floor flat within a small semi-detached house. Another first-floor was rented out by a different landlord. Both flats are accessed via the same front door leading into a narrow hallway, off which the door to the Property is located. The Property contains 2 bedrooms, living room, small kitchen, shower room and access to a small garden.
16. The Applicant was a tenant at the Property from 8 April 2019 until 8 February 2024, having entered into an assured shorthold tenancy for an initial term of 12 months. Rent was paid by the Applicant throughout her occupancy. Rent was charged at £750 per month until it was increased to £850 per month with effect from 8 May 2023.
17. When the Applicant moved into the Property, she had a young child and newborn baby. Her third child was born during her period of occupancy.

The law

18. Extracts from relevant legislation are appended to this Decision. The main points emerging are set out below.
19. Under section 41(1) of the Housing and Planning Act 2016 (“the 2016 Act”) a tenant may apply to the Tribunal for a RRO against a person who has committed an offence “to which this Chapter applies”. An offence is

defined by reference to a table in section 40(3). The offence under section 95(1) of the Housing Act 2004 (control or management of unlicensed house) is within that table.

20. The Tribunal may make a RRO if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which Chapter 4 applies, whether or not the landlord had been convicted (section 43(1) of the 2016 Act).

21. Section 95(1) of the Housing Act 2004 provides that 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.

22. An offence under section 95(1) can only be committed by a person who has control of or manages a house. The meaning of these terms is set out in section 263 of the 2004 Act as follows:

23. Section 251 of the 2004 Act

(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) a person purporting to act in such a capacity, he as well as the body corporate commits the offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

24. Section 263 of the 2004 Act

(1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) *In this Act “person managing” means, in relation to premises, the person who, being an owner or lessee of the premises –*

(a) receives (whether directly or through an agent or trustee) rents or other payments from–

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement ... 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 ...

25. It is a defence to a charge of an offence under section 95(1) of the 2004 Act that a person had a reasonable excuse for committing it (section 95(4)).

26. By virtue of the decision of the Supreme Court in the case of ***Rakusen - v Jepsen and others*** [2023] UKSC 9, an order may only be made against the immediate landlord of a tenant.

Identity of the Landlord

27. Central to the Applicant’s case is the issue of the identity of the immediate landlord for the purposes of considering the application for a RRO. The tenancy agreement named both Mr Isaac Gee and Pinkerton Investments Limited in the description of the landlord.

28. In her witness statement, Ms Hamadi described Mr Gee and a Mr Chiddocks as her landlords. At the hearing Ms Hamadi said that Mr Chiddocks had told her that Mr Gee was the landlord, but she had never met him. The Tribunal finds no basis to conclude that Mr Chiddocks was the landlord and Ms Hamadi’s understanding is unsupported by evidence.

29. At the hearing, Mr Cairns argued that Mr Gee was the immediate landlord as named in the tenancy agreement and the person who received, or would receive, the rack-rent. As such, Mr Cairns maintained that Mr Gee was the person with control of the Property as defined in section 263(1) of the 2004 Act.

30. There are two main flaws with this argument. Firstly, the Applicant's bank statements show that rent was paid to "Pinkerton Inv Li". Logically, this must be Pinkerton Investments Limited. Mr Cairns suggested that the company was just the rent collector. To make this point, the Tribunal was referred to paragraph 44 of ***Cabo v Dezotto*** [2022] UKUT 240 (LC), where the Upper Tribunal said: "*an owner of property who does not collect the rent is not a person in control in the sense described in section 263(a). Whether or not the rent was being passed on does not matter for this purpose. What is important is that it was not being paid to Ms Cabo, and for that reason she was not a person having control of the Property.*" However, the Tribunal does not see that this assists the Applicant's argument regarding Mr Gee. The evidence points firmly to the rent being "received" by Pinkerton Investments Limited, the Second Respondent, and there is no evidence beyond supposition that the rent was paid on to Mr Gee.
31. Secondly, "rack rent" is defined to mean "a rent which is not less than two-thirds of the full net annual value of the premises." As Mr Cairns acknowledged, there is no evidence this was a rack rent. There is no information on market value to make any such calculation.
32. Mr Gee cannot be the "person managing" the Property as defined in section 263(3) of the 2004 Act. On the evidence, he was not an owner or lessee of the Property as required by the subsection. The Official Copies of the register of title show that as of 10 October 2023 Pinkerton Investments Limited was the registered proprietor of the leasehold interest in the Property and had been so since 23 April 2019. Moreover, there remains the same issue of the lack of evidence that Mr Gee "received" the rent.
33. It was acknowledged at the hearing that it is unknown what relationship Mr Gee has with Pinkerton Investments Limited. Nevertheless, Mr Cairns referred the Tribunal to the liability of a person besides a company under section 251(1) of the 2004 Act. The effect of section 251(1) is that where it is found that a company committed an offence with the consent, connivance or neglect of a director, manager or similar officer (or purports to act in such capacity), that person also commits the offence. They are "liable to be proceeded against and punished accordingly".
34. The application of section 251(1) in a RRO case was considered in ***Kaszowska v White*** [2022] UKUT 11 (LC). The Upper Tribunal made the point that the only person against whom section 40(2) permits a RRO to be made is a landlord. "*Had it been intended to extend the scope of rent repayment orders to company directors Parliament would surely have said so in explicit terms.*" The Tribunal had no jurisdiction to make an RRO against a company director. It follows that Mr Gee could only have liability for a RRO if he was the landlord and not by reason of any position he may have held within the Second Respondent company.

35. The Tribunal concludes that the Second Respondent was the landlord for the purposes of section 95(1). The Second Respondent is named in the tenancy agreement and only its registered office address is given. It is the registered proprietor. The Applicant's bank statements show that the company received the rental payments. On the facts, the company was a "person managing" the Property within the meaning of section 263(3)(a)(ii).
36. In contrast, the evidence produced falls significantly short of establishing that Mr Gee was a person having control or managing the Property under section 95(1). We proceed on the basis that the Second Respondent is the landlord against whom the RRO application is pursued.

The Tribunal's determination

37. The Tribunal has gone on to consider the application in four stages –
- (i) Whether the Tribunal is satisfied beyond reasonable doubt that the Second Respondent had committed an offence under section 95(1) of the 2004 Act.
 - (ii) Whether the qualifying criteria is met.
 - (iii) Whether the Tribunal should exercise its discretion to make a RRO.
 - (iv) Subject to the above, determination of the amount of any RRO.

Whether an offence had been committed

38. On 18 March 2021 Southend Borough Council made a designation of an area for selective licensing under section 80 of the 2004 Act. The Scheme applies to any house which is let or occupied under a tenancy or licence within a designated area unless an exemption applied. The scheme came into force on 1 December 2021. It will cease to have effect on 30 November 2026, unless revoked earlier.
39. St. Leonards Road is listed as a street to which the designation applies. Therefore, the Property is located in an area that was designated by the local housing authority as subject to selective licensing under Part 3 of the 2004 Act.
40. By email on 10 November 2023, Southend-on-Sea City Council confirmed that "*as the property was a private rental to a single household a Selective Licence (LC) was required when the scheme was launched by SCC on 1st December 2021.*" At the same time, the Council

confirmed that a Selective Licence was issued on 2 November 2023 following an application made on 27 September 2023.

41. When the selective licensing regime came into effect on 1 December 2021, the Property was let to the Applicant under a tenancy agreement. The Property continued to be let to the Applicant up until the licence application was made on 27 September 2023.

Statutory defence/reasonable excuse

42. When Justice For Tenants asked the local authority by email on 10 October 2023 whether the Property had ever been licensed under any licensing scheme, they did not get a direct answer. However, the local authority's reply of 10 November 2023 referred only to the licence application of 27 September 2023. It did not identify any earlier licence being in force.
43. Thus, there is no evidence before us that a temporary exemption was granted in respect of the Property under section 62(1), which was still effective, or that an application for a licence had been duly made under section 87 before 27 September 2023. The Tribunal finds that no statutory defence under section 95(3) of the 2004 Act is made out.
44. No statutory defence is argued under section 95(4)(a) of the 2004 Act. Nevertheless, the Tribunal has considered whether the facts raised could, on the balance of probabilities, give rise to a 'reasonable excuse' defence even though not raised. Upon consideration of the facts, the Tribunal has no cause to believe that the Second Respondent had a 'reasonable excuse' to constitute a defence.

Conclusion on whether an offence was committed

45. Based on the evidence before us, the Tribunal is satisfied that throughout the period in question, the Property was required to have a selective licence and that it did not have one. It follows that any person who falls within the definition of either a person having control of the property or a person managing it, as set out above, was committing an offence. The Tribunal has determined that such person is the Second Respondent.
46. Applying the criminal burden of proof, the Tribunal is accordingly satisfied beyond reasonable doubt that the Second Respondent committed the offence of being a person having control of and/or managing the Property which was required to be licensed but was not so licensed, for the whole period claimed from 8 September 2022 to 7 September 2023, contrary to section 95(1) of the 2004 Act.

Qualifying criteria

47. Section 41(2)(b) of the 2016 Act provides that a tenant may only apply for a RRO if the offence was committed "in the period of 12 months ending with the day on which the application is made".
48. The offence relates to housing that, at the time of the offence, was let to the Applicant. The offence was ongoing between 1 December 2022 until 26 September 2023. Thus, the offence was committed in the 12-month period prior to the application being made on 19 September 2024. Accordingly, the qualifying criteria within section 41(2) are met.

Exercise of the Tribunal's discretion

49. The Tribunal bears in mind the importance of the aim of enforcing the licensing regime. The Tribunal has been satisfied that a criminal offence has been committed. We note that in ***London Borough of Newham v Harris*** [2017] UKUT 264 (LC) the Upper Tribunal said that it would be a very rare case in which a tribunal could decide not to exercise its discretion where a criminal offence had been committed.
50. In the circumstances of this case, the Tribunal is satisfied that it should exercise its discretion under section 43 of the 2016 Act to make an RRO in favour of the Applicant.

The amount of the Order

51. Section 44 of the 2016 Act provides that where the Tribunal decides to make an RRO against a landlord in favour of a tenant, the amount is to be determined in accordance with that section. Section 44(2) provides that in a case concerning an offence under section 95(1) of the 2004 Act, the amount must relate to rent paid during a period, not exceeding 12 months, during which the landlord was committing the offence.
52. In determining the amount of the RRO, 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 Chapter of the 2016 Act applied (section 44(4)).

Relevant caselaw

53. The Upper Tribunal in ***Williams v. Parmar*** [2021] UKUT 0244 (LC), gave guidance as to the approach which the Tribunal should take to assessing the amount of an RRO awarded under section 44 (not being a case of an order following conviction under section 46).

54. In summary, the guidance in that case was as follows (with reference to paragraph numbers of that decision):
- (i) The terms of section 46 show that in cases where that section does not apply, there is no presumption that the amount ordered is to be the maximum that the Tribunal could order under section 44 [23];
 - (ii) Section 44(3) specifies that the total amount of rent paid is the maximum amount of an RRO, and section 44(4) requires the Tribunal in determining the amount of the RRO to have particular regard to the three factors specified in that sub-section. However, the words of that sub-section leave open the possibility of there being other factors that, in a particular case, may be taken into account and affect the amount of the order [24];
 - (iii) The RRO must always “relate” to the amount of the rent paid in the period in question. It cannot be based on extraneous considerations or tariffs. It may be a proportion of the rent paid, or the rent paid less certain sums, or a combination of both. But the amount of the rent paid is not a starting point in the sense that there is any presumption that that sum is to be the amount of the order in any given case nor even the amount of the order subject only to the factors specified in section 44(4) [25].
55. Among the legal authorities on RRO’s, the Upper Tribunal in ***Acheampong v Roman; Choudhary v Razak*** [2022] UKUT 239 (LC) (as confirmed in ***Dowd v Martins & Ors*** [2022] UKUT 249 (LC)) set out that when considering an award for an RRO, the Tribunal must take the following steps:
- 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.
 - 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 figure is then the starting point (in the sense that 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 light of the other factors set out in section 44(4).

The relevant period

56. The relevant period is subject to a limit of 12 months during which the offence was committed, and rent was paid (section 44(2)). For this type of offence, the relevant 12-month period does not need to be the period ending with the date of the offence. The Applicant can apply for *any* period of up to 12-months during which the offence was committed and rent was paid under the tenancy.
57. On the evidence, the offence in this case was ongoing from 1 December 2021 up until an application was made for a licence for the Property on 27 September 2024. The Applicant's claim is for the 12-month period between 8 September 2022 to 7 September 2023. At the hearing Mr Cairns clarified that the reason for selecting these dates was for the ease of calculation. The period reflects that rent was paid under the tenancy on the 8th day of every month.
58. The copy bank statements produced by the Applicant demonstrate that Ms Hamadi paid the rent in full to the Second Respondent over the relevant 12-month period claimed. The whole rent paid over that period totalled £9,400. Therefore, the total maximum award in favour of the Applicant is £9,400.
59. Following deduction of universal credit paid to the Applicant, as required by section 44(3)(b), a total of £220 remains potentially recoverable by the Applicant. Having control of or managing an unlicensed HMO is not an offence described in section 46(3) to require a RRO to be the maximum amount that the Tribunal has power to order.
60. The Tribunal has reached the conclusions below on the other specific matters it is to take into account under section 44(4), and as to any other matters it considers relevant.

Deductions for utilities

61. Under clause 1.5 of the tenancy agreement, the tenant was liable for Council Tax. Clause 1.4 stipulates that, unless otherwise agreed in writing by the landlord, the tenant must pay for water, sewerage, and environmental charges for the Property, and to pay for utility supplies consumed. The bank statements show that Ms Hamadi paid water charges to Anglian Water.
62. Ms Hamadi said that she had a key fob for her electric. There was never any working lighting in the communal hallway. She could not recall if

there was a gas supply or the type of heating. However, the Tribunal notes that her bank statements show payments made during the period claimed to Utilita Energy, an electric and gas supplier.

63. There is no information before the Tribunal to indicate that the cost of any utilities was included within the tenancy. In consequence, no deductions are to be made in respect of utilities.

Seriousness of the offence

64. Consideration turns to the seriousness of the offence. As required by the approach recommended in the case of *Acheampong* the Tribunal has considered the seriousness of the offence both as compared to other types of offence and then as compared with other examples of offences of the same type. From that, we have determined what proportion of the rent is a fair reflection of the seriousness of the offence.
65. Notably, for an offence of this type, the maximum amount stipulation in section 46 of the 2016 Act does not apply. That gives a clear indication that the offence of control or management of an unlicensed house under section 95(1) is capable of being less serious than other offences to which a RRO can relate. That is borne out by a line of legal authorities.
66. In ***Newell v Abbott and Okrojek*** [2024] UKUT 181 (LC), the Upper Tribunal stated at [38] “*The Tribunal has nevertheless commented on a number of occasions (and particularly in Hallet v Parker at paragraph [30]) that, in a list of housing offences which includes the use of violence to secure entry, unlawful eviction, and failure to comply with an improvement notice, a prohibition order or a banning order, licensing offences are relatively of lesser seriousness” [emphasis added].*
67. In ***Daff v Gyalui*** [2023] UKUT 134 (LC) the Upper Tribunal tried at paragraphs 48 to 49 to rank the housing offences by references to their general seriousness. In relation to the seven offences identified in section 40(3) of the 2016 Act for which a RRO can be made, the two offences of violence or intimidation and eviction or harassment are identified as plainly the most serious of those listed. Breaching a banning order is also particularly serious. All three offences are at the upper end of the range of seriousness. The remaining four offences involving breaches of the 2004 Act are generally of a lesser serious type. The Upper Tribunal recognised that there will of course be more or less serious examples within each category and the circumstances pertaining to a licensing offence may vary significantly.
68. Mr Cairns identified three factors that he said made this case a more serious example. In terms of the first issue, it is simply unknown whether there was a “lack of processes to keep abreast of legal obligations” as the Applicant asserts.

69. The second issue concerns “consistent breaches of the local authority’s licensing conditions.” The flat was described in Mr Cairns’ skeleton argument as “a dangerous place to live for the Applicant and her children, eventually leading to Southend providing the Applicant safer living conditions.” However, this statement is contradicted by the Applicant’s own witness statement. The reason Ms Hamadi gave for the local housing authority finding her alternative accommodation was an entirely separate reason concerning her personal safety, and not the condition of the flat.
70. When the Tribunal asked about the “bugs” to which Ms Hamadi referred, the Tribunal was told there were wood lice crawling all over the floor. They became apparent the day after she had moved in. Ms Hamadi said her landlord failed to sort them and gave her silicone to fill in gaps and holes herself. Her oral evidence was that it took about one month to sort out the woodlice herself. As the Applicant moved in during April 2019, this complaint arose and was resolved before the introduction of the selective licensing regime and the commission of any offence. It is disregarded accordingly.
71. Ms Hamadi told the hearing there were also “huge slugs” that appeared in the bathroom, and they would go into the kitchen. She said this occurred throughout the tenancy and suggested that her reference to “bugs” included slugs. There is no mention of slugs in her written witness evidence or messages to Mr Gee. Nor is it sufficiently clear that an issue with slugs arose due to a defect with the Property or landlord neglect. In the circumstances, we give this complaint little weight.
72. There were deficiencies with the Property. There was a serious security/safety concern over the shared front door of the building. The door could be opened without a key by pushing the door. There was a broken glass panel in the door. The Applicant’s baby had cut their hand, fortunately not badly, whilst being carried through the door in March 2021. Whilst this incident occurred before the selective licensing regime came in, Ms Hamadi said that the door was never fixed. Her text messages show that Mr Gee was aware of the issue. This goes to the third issue raised by Mr Cairns of awareness and failure to act upon breaches.
73. ‘Guidance for Selective Licensing’ (“the Guidance”) published by Southend-on-Sea City Council is a document providing guidance on the minimum requirements for privately rented homes that require a selective licence. At section 3.9 of the Guidance, it provides that the dwelling should be free from dampness prejudicial to the health of the occupants. This includes rising damp, penetrating damp, and condensation.
74. The Private Sector Housing Service for the local housing authority conducted a site visit to the Property on 9 November 2022. The findings are recorded in a letter to Ms Hamadi dated 14 November 2022. It

records that the Property was found to be warm and dry for the most part with sufficient heating and ventilation throughout. Low level damp was found to one partition wall for the lounge and possible penetrating low-level damp to one partition wall between the lounge and shower room. Water appeared to be escaping from the shower cubicle adjacent to the wall, possibly from a perished seal.

75. The shower room was found not to be sufficiently ventilated as the window was closed with evidence of it remaining closed for some time. The Applicant was encouraged to open the window to allow excess moisture to escape and prevent mould growth.
76. No mould was observed but as the rooms were particularly cluttered from belongings and furniture. The Applicant was encouraged to make attempts to move belongings to enable air circulation to prevent condensation and creating mould spores. The Applicant was also advised to clear vegetation in the garden that had started to grow in the drains as it could block the escape of water and lead to penetrating damp.
77. The areas of damp were described by the Council as “very minimal” and not assessed as a Category One hazard that would place occupiers at imminent risk over the next 12 months. The areas affected were not sleeping rooms and so the level of exposure to damp was low. In the Officer’s professional opinion there were “no other hazards in the property that amount to a Category One hazard”. The letter proceeds to say that the Council had spoken to the landlord who had confirmed that he was arranging access with a builder to investigate the cause of the damp. At the hearing Ms Hamadi, confirmed that a builder had attended and tiling in the shower room was replaced. She could not recall when.
78. Ms Hamadi referred to both rats and mice in the Property. ‘Pest control’ is addressed at section 4.3 of the Guidance. It states that the dwelling should be free from pests and pest infestations, including but not limited to rats and mice, so that the occupants are not subjected to threats to their physical or mental health.
79. From the screenshots of WhatsApp/text messages Ms Hamadi complained to Mr Gee of rats in the under-stair storage cupboard on 21 November 2021. By 2 December 2021, maintenance workers had attended to resolve the issue. A licence was not required until 1 December 2021 and it was resolved “very quickly” as Ms Hamadi acknowledged. In the circumstances it does not influence our findings.
80. However, there are aggravating features from a mice infestation said by Ms Hamadi to have existed for the last 18-months to 2 years of her tenancy. The presence of mice is verified by the Council who wrote to the Second Respondent company on 21 July 2023 after visiting the Property. The letter was sent with reference to The Energy Performance of Buildings (Certificate and Inspections) (England and Wales) Regulations

2007. It states there “are still mice droppings noted in various rooms”. It could not be ascertained if the droppings were fresh or if there were holes that needed proofing due to clutter. The company was told to “continue eradicating the mice infestation” and upon completion to provide a satisfactory outcome report.

81. It is not known if the report requested by the Tribunal was provided, but the letter supports the Applicant’s case that the landlord knew of the vermin infestation and failed to resolve it.
82. Mr Cairns cited several Upper Tribunal decisions, which we have considered. None of these cases are entirely on all fours with this appeal. Of course, each and every case will have differences, and the circumstances are unlikely to be identical between properties.
83. ***Williams v Parmar*** involved a house in multiple occupation, which this is not, that was in such poor condition a licence would not be granted. The Tribunal awarded 80% of the rent (and 90% for one tenant). ***Wilson v Arrow*** [2022] UKUT 27 (LC) also concerned an unlicensed HMO lacking in important fire safety features, including fire doors and alarms which had not been remedied for a year after becoming aware of them. The Tribunal awarded 90% of the rent.
84. ***Choudhury v Razak*** (heard with *Acheampong*) is comparable from the viewpoint that it concerned an unlicensed flat that was subject to selective licensing. It was not in a satisfactory condition, there were failings in fire safety equipment, the tenants’ deposit was not protected, and the landlord did not hold gas or fire safety certificates. The Tribunal ordered repayment of 75% of the net rent.
85. In arriving at a view, we also note that “*the power to make rent repayment orders should be exercised with the objective of deterring those who exploit their tenants by renting out substandard, overcrowded or dangerous accommodation.*” (***Hallett v Parker*** [2022] UKUT 165 (LC) at [25]).
86. In terms of the damp, the Tribunal takes on board that it was categorised as “very minimal”. There was still a defect with the shower room that required addressing by the landlord. There was an ongoing mice infestation at the Property, which was occupied by a mother and her very young family. In assessing severity, the Tribunal takes into consideration the condition of the Property in the context of their vulnerability and that one of the children suffered from asthma. In addition, the front door was insecure with broken glass presenting a hazard.
87. In the Tribunal’s judgement, a 30% reduction (after the deduction for utilities above) is a fair reflection of the seriousness of the offence. This proportion could be adjusted up or down depending on the other specific

matters it is to take into account under section 44(4) of the 2016 Act, and other matters it considers relevant.

Conduct of the landlord and tenant

88. The very clear purpose of the 2016 Act is that the imposition of a RRO is penal to discourage landlords from breaking the law. It is not to compensate a tenant, who may or may not have other rights to compensation. The Tribunal also bears in mind the importance of the aim of this jurisdiction of enforcing a licensing regime which is intended to raise the standards of privately rented housing.
89. In ***Newell*** the Upper Tribunal stated in terms of section 44(4) that “Tribunals should not feel that they are required to treat every such allegation with equal seriousness, or to make findings of fact on them all. The focus should be on conduct with serious or potentially serious consequences, in keeping with the objectives of the legislation” [61].
90. There was poor conduct on the landlord’s part by failing to address the mice infestation, to fix the shared front door, and the need for the Applicant to complain to the Council before the minor damp issue from the shower room was fixed. The volume of text messages shows how tardy and/or inactive the landlord was in addressing these matters.
91. The Council’s report advised steps that the Applicant herself should take to improve ventilation and prevent mould. Those measures may have improved the family’s living environment, but they do not reveal any conduct on her part that should reduce the amount of an award.
92. Having evaluated the matters above, the Tribunal concludes, that in the circumstances of this case, it is appropriate to make a 5% increase to the RRO to reflect the conduct of the Second Respondent. In reaching this view we have been careful to avoid double counting.

Other relevant factors and the appropriate award

93. The Tribunal has then considered whether any decrease or increase is appropriate by virtue of the factors set out in section 44(4) of the Act.
94. There is no information before the Tribunal as to whether the Second Respondent is a professional landlord. As of the hearing date, the Companies House website showed the company to still be solvent. There is no reason to believe that the company would have difficulty paying the RRO.
95. Having considered the factors in section 44(4) and weighing everything up, the Tribunal makes no further adjustments to the amount of the

RRO. The Tribunal finds it appropriate to award 75% of the maximum amount that could be awarded after deduction of Universal Credit. This results in a figure of £165.00.

Conclusion

96. The Tribunal awards the Applicant a RRO in the sum of **£165.00** against the Second Respondent, Pinkerton Investments Limited.
97. For the reasons given above, the Tribunal dismissed the application against the First Respondent, Mr Gee.
98. In view of its findings, and the fact that the Applicant could not actually have obtained relief without pursuing this application, the Tribunal further makes an order under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 that the Respondent shall within 28 days reimburse the application fee of £110 and the hearing fee of £220 paid by the Applicant.

Name: **Judge K. Saward**

Date: 16 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).

Appendix of relevant legislation

Housing Act 2004

95 Offences in relation to licensing of houses under this Part

(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 (see section 85(1)) but is not so licensed.

(2) A person commits an offence if—

(a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 90(6), and

(b) he fails to comply with any condition of the licence.

(3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—

(a) a notification had been duly given in respect of the house under section 62(1) or 86(1), or

(b) an application for a licence had been duly made in respect of the house under section 87, and that notification or application was still effective (see subsection (7)).

(4) In proceedings against a person for an offence under subsection (1) or (2) it is a defence that he had a reasonable excuse—

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or

(b) for failing to comply with the condition, as the case may be.

(5) A person who commits an offence under subsection (1) is liable on summary conviction to a fine.

(6) A person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(6B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.]

(7) For the purposes of subsection (3) a notification or application is “effective” at a particular time if at that time it has not been withdrawn, and either—

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or (b) if they have decided not to do so, one of the conditions set out in subsection (8) is met.

(8) The conditions are—

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of the appropriate tribunal) has not expired, or

(b) that an appeal has been brought against the authority’s decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(9) In subsection (8) “relevant decision” means a decision which is given on an appeal to the tribunal and confirms the authority’s decision (with or without variation).

Housing and Planning Act 2016, Chapter 4

40 Introduction and key definitions

(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

(b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.

(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.

Act	section	general description of offence
1	Criminal Law Act 1977	section 6(1)
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)
3	Housing Act 2004	section 30(1)
4		section 32(1)
5		section 72(1)
6		section 95(1)
7	This Act	section 21

(4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

41 Application for rent repayment order

(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 Making of rent repayment order

(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);

(b) section 45 (where the application is made by a local housing authority);

(c) section 46 (in certain cases where the landlord has been convicted etc).

44 Amount of order: tenants

(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 the rent paid during the period mentioned in the table.

<i>If the order is made on the ground that the landlord has committed</i>	the amount must relate to rent paid by the tenant in respect of
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.

Section 52 Interpretation of Chapter

(1) In this Chapter—

“offence to which this Chapter applies” has the meaning given by section 40;
“relevant award of universal credit” means an award of universal credit the calculation of which included an amount under section 11 of the Welfare Reform Act 2012;

“rent” includes any payment in respect of which an amount under section 11 of the Welfare Reform Act 2012 may be included in the calculation of an award of universal credit;

“rent repayment order” has the meaning given by section 40.

(2) For the purposes of this Chapter an amount that a tenant does not pay as rent but which is offset against rent is to be treated as having been paid as rent.