



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

Case reference : **LON/00AB/HMF/2025/0655**

Property : **47, Bushgrove Road, Dagenham,
London. RM8 3SL**

Applicants : **(1) Mohammad Rezwanul Kabir
(2) Jannatul Fardosh Sujana**

Representative : **Not represented**

Respondent : **Lere Idowu**

Representative : **Not represented**

Type of application : **Application for a rent repayment order
by tenants**

Tribunal : **Judge S.J. Walker
Tribunal Member Mr. S. Wheeler
MCIEH, CEnvH**

**Date and Venue of
Hearing** : **3 October 2025
10, Alfred Place, London WC1E 7LR**

Date of Decision : **23 October 2025**

DECISION

- (1) The Tribunal makes a Rent Repayment Order under section 43 of the Housing and Planning Act 2016 requiring the Respondent to pay the Applicants the sum of £5,760.**
- (2) The Tribunal makes an order of its own motion under rules 13(2) and (3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for the re-imbusement by the**

Respondent of the fees of £300 paid by the Applicants in bringing this application. Payment is to be made within 28 days.

Reasons

The Application

1. The Applicants seek a rent repayment order pursuant to sections 43 and 44 of the Housing and Planning Act 2016 (“the Act”) for a period of 12 months ending on 1 August 2024.
2. The application was made on 9 December 2024, so is in time, and alleges that the Respondent has committed an offence under section 95(1) of the Housing Act 2004 (“the 2004 Act”) – having control of or managing a house which is required to be licensed under Part 3 of the Housing Act 2004, but which is not so licensed.
3. Directions in respect of this application were issued on 2 April 2025. In compliance with those directions the parties have both provided bundles of documents. That from the Applicants comprises 63 numbered pages and that from the Respondent 22 numbered pages. References to pages in these bundles will be prefaced by the letters A and R respectively.

The Hearing

4. The hearing was conducted face-to-face. The first Applicant, Mr. Kabir attended as did the Respondent Mrs. Idowu.

The Legal Background

5. The Tribunal may make a rent repayment order when a landlord has committed one or more of a number of offences listed in section 40(3) of the Act. These include an offence contrary to section 95(1) of the 2004 Act.
6. An offence is committed under section 95(1) of the 2004 Act if a person has control or management of a house which is required to be licensed under the selective licensing provisions of Part 3 of the Housing Act 2004, but which is not so licensed. Part 3 of the Housing Act 2004 allows local housing authorities to designate areas as being subject to selective licensing requirements.
7. An offence under section 95(1) can only be committed by a person who has control of or manages the property in question. The meaning of these terms is set out in section 263 of the 2004 Act as follows;

“(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 (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;*
and includes, where those rents or other payments are received through another person as agent or trustee, that other person.
8. An order may only be made under section 43 of the Act if the Tribunal is satisfied beyond reasonable doubt that an offence has been committed.
 9. 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)). Any such defence must be established by the defendant on the balance of probabilities.
 10. 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.
 11. By section 44(2) of the Act the amount ordered to be paid under a rent repayment order must relate to rent paid in a period during which the landlord was committing the offence, subject to a maximum of 12 months. By section 44(3) the amount that a landlord may be required to repay must not exceed the total rent paid in respect of that period.
 12. Section 44(4) of the Act requires the Tribunal to have regard to the conduct of the landlord and tenant, the financial circumstances of the landlord and whether or not the landlord has been convicted of a relevant offence when determining the amount to be paid under a rent repayment order.

Has an Offence Been Committed?

13. There was little or no dispute about the facts of this case, which were largely accepted by the Respondent. She accepted that she, through her agents Docklands Estates Ltd., let the property to the Applicants for a

period of 6 months from 1 July 2023. The tenancy agreement is at pages A5 to A27. In her statement of case the Respondent accepted that she is the owner of the property and that it is in her sole name (see page R2).

14. The Respondent accepted that rent of £1,600 per month was paid by the Applicants to her agents on her behalf.
15. The Respondent also accepted that the property needed to have a selective licence but that it did not do so.
16. It follows from this that the Tribunal was satisfied that the Respondent was a person managing the property as she was an owner who received rent from the occupiers through her agents.
17. The only substantial issue in this case was whether or not Mrs. Idowu had a reasonable excuse for failing to licence the property. The basis of this defence is set out in her statement of case. Here she states that in May 2023 she had an accident which required her to have stitches in her dominant hand, that when the stitches were removed on 7 July 2023 it was found that the wound was infected, and that she was advised not to use her hand. She then goes on to explain that at the time she was also going through a difficult marital break-up which caused significant problems with her mental health. This account is supported by evidence of counselling sessions being undertaken by her (see page R16).
18. In her oral evidence Mrs. Idowu accepted that she knew before the tenancy agreement was entered into with the Applicants that she needed to obtain a licence. Her evidence was that she contacted her agents in March 2023 and instructed them to find a tenant for the property. She said that at that time she was told that once a tenant was found she would need to get a licence.
19. In her statement of case Mrs. Idowu said the following;
“On 1 July 2023 the agents informed us [her and her husband] they had found a tenant. I began the licensing application on 12 July 2023 but did not complete it, intending to return to it later. However, life took an unexpected turn. In August 2023, I discovered that my husband had been unfaithful. My world collapsed around me. As I tried to come to terms with the situation, there were days I couldn’t get out of bed, let alone go to work.” (See page R2)
Later in the same document she again said that she commenced the licensing application on 12 July 2023 and that she had every intention of completing it. There was no doubt, though, that the application was not completed.
20. In her oral evidence Mrs. Idowu stated that it was not in fact the case that she had begun the licensing application. She said that her relationship with her husband was already very bad at the time, that the agent was following her husband’s instructions and not her own, that her husband was controlling her access to her e-mails by, for instance, changing all

her passwords, and that she was unable to get any help with dealing with the property.

21. To the extent that this evidence contradicted the contents of Mrs. Idowu's own statement of case, the Tribunal preferred the latter. When asked about the contradictions between the clear evidence in her statement that she herself had begun the licensing application and her oral evidence, she was unable to provide a satisfactory answer.
22. The Tribunal also had evidence of e-mail exchanges between Mrs. Idowu and the agent. These show that on 7 July 2023 the agent reminded her to apply for a selective licence and that the same day she replied to her agent stating that she would do so (page A51). This is not consistent with her account that she was not able to access her own e-mails. Mrs. Idowu has not suggested that this correspondence was sent by someone other than her, nor did she say anything about her husband changing her passwords or otherwise preventing her from dealing with the agent in her statement of case. Such actions would form an important part of her case and the Tribunal concluded that, if the situation were indeed as she alleged in her oral evidence, she would have mentioned it in her statement.
23. When asked why she did not seek the assistance of the agent in progressing the licence application, again Mrs. Idowu's response lacked credibility. She again suggested that she could not do so because of the controlling behaviour of her husband. In the view of the Tribunal, Mrs. Idowu could easily have replied to the reminder e-mail from the agent of 7 July 2023 stating that she was not able to deal with the application herself and asking for their help, but she did not. Her reply on 7 July that she would do the application is consistent with the account in her statement of case that she started the application on 12 July 2023. Alternatively, she could have sought help elsewhere, but she did not.
24. Mrs. Idowu also relies on her deteriorating mental state as a result of her marital difficulties. In her statement of case she suggested that the real problems began in August 2023 when she found out that her husband had been unfaithful, but in her oral evidence she said that her relationship with her husband had been poor before then. This the Tribunal accepted.
25. The Tribunal also accepted Mrs. Idowu's account that, despite her poor mental state, there would have been times even after August 2023 when she would have been able to complete the licence application.
26. Taking all the evidence together, the Tribunal was not satisfied that Mrs. Idowu had established a reasonable excuse for failing to licence the property. It was clear that she was well aware of the need to obtain a licence but did not do so. Even if, which the Tribunal did not accept, she was not able to make the application herself in July 2023, she was certainly able to instruct somebody else to do it for her, but she did not.

27. It follows, therefore, that the Tribunal was satisfied that the Respondent was committing an offence contrary to section 95(1) of the 2004 Act continuously from 1 July 2023, when the Applicants moved in, onwards. The offence was still being committed at the end of the period in question.

Jurisdiction to Make an Order

28. On the basis of the facts set out above it was clear that the Respondent was the Applicants' immediate landlord. It follows that the Tribunal has jurisdiction to make an order against her.

Amount of Order

29. The Tribunal therefore went on to consider the amount, if any, which it should order the Respondent to pay. In doing this it had regard to the approach recommended by UT Judge Cooke in the decision of Acheampong -v- Roman and others [2022] UKUT 239 (LC) @ para 20. The first step is to ascertain the whole of the rent for the relevant period.

Rent

30. Evidence of rent payments is contained in the Applicants' bundle (pages A28 to A44). These show a payment of £1,600 on 4 July 2023 and 11 further payments of the same amount, with the last being on 1 August 2024. These payments were agreed by the Respondent.
31. It follows that in the period in question the total rent paid was £1,600 x 12 = £19,200.

Utilities

32. The rent paid by the Applicants did not include any element for utilities (see clauses 15.1 to 15.11 of the tenancy at pages A16 and 17). No deduction is, therefore, required from the total amount of rent paid.

Seriousness of Offence

33. As required by the approach recommended in the case of Acheampong the Tribunal then 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 it determined what proportion of the rent was a fair reflection of the seriousness of the offence.
34. The offence in question is one contrary to section 95(1) of the 2004 Act. This is, when compared with offences such as unlawful eviction, at the bottom end of the spectrum of offences in respect of which an order may be made. The Tribunal considered that an appropriate reduction to reflect this was 30%.
35. The Tribunal also concluded that this was far from a serious offence of its kind. Firstly, it considered the impact on the tenants of the absence of a licence. This was not a case where the Applicants had shown that there were any safety risks at the property, nor indeed, were there any complaints about it.

36. The Tribunal also considered the fact that there was no evidence that the Respondent rented out any other properties.
37. In addition, in assessing the seriousness of the offence regard must be had to the matters put forward by the Respondent in the context of her case that she had a reasonable excuse. Whilst that argument was unsuccessful, the circumstances in which the Respondent found herself can be taken into account in mitigation. This was not a case of a landlord deliberately seeking to avoid their legal responsibilities.
38. Bearing all those additional factors into account the Tribunal concluded that a further reduction of 40% was appropriate to reflect the fact that this was an offence which was towards the bottom end of seriousness even for an offence of its kind.
39. Thus, the Tribunal concluded that the appropriate adjustment was a reduction of 70%.

Section 44(4)

40. The Tribunal then considered whether any decrease – or increase – was appropriate by virtue of the factors set out in section 44(4) of the Act.
41. In this case there were no allegations of poor conduct by the Respondent. Indeed Mr. Kabir's oral evidence was that he had no complaints about the Respondent's conduct.
42. One matter which was raised by the Applicants was the fact that the Respondent served a section 21 notice on them on 30 April 2024. As there was no licence in place this was an unlawful notice. However, there was nothing to show that the Respondent knew this was unlawful.
43. There were also no complaints from the Respondent about the Applicants' conduct.
44. In her statement of case the Respondent raised no issues in respect of her ability to pay any order made by the Tribunal and no financial evidence was provided. In addition, in her oral evidence Mrs. Idowu stated that she had since sold the property and that her equity in it was around £100,000. In the circumstances there was no basis for reducing the amount of the order under section 44(4)(b) of the Act.
45. There was no suggestion that the Respondent had been convicted of any other offences.
46. It follows, therefore, that the amount of the order payable by the Respondent to the Applicants is $\text{£}19,200 \times 30\% = \text{£}5,760$.
47. Although no express application was made by the Applicants for an order under rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for the re-imbursement of the fees paid

for bringing the Application, the Tribunal may make such an order of its own motion. It decided that, given that the Applicants had been successful in their application, it was appropriate to do so.

Name: Judge S.J. Walker

Date: 23 October 2025

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

Appendix of relevant legislation

Housing Act 2004

Section 72 **Offences in relation to licensing of HMOs**

- (1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.
- (2) A person commits an offence if—
 - (a) he is a person having control of or managing an HMO which is licensed under this Part,
 - (b) he knowingly permits another person to occupy the house, and
 - (c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.
- (3) 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 67(5), and
 - (b) he fails to comply with any condition of the licence.

- (4) 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
 - (b) an application for a licence had been duly made in respect of the house under section 63,
- and that notification or application was still effective (see subsection (8)).
- (5) In proceedings against a person for an offence under subsection (1), (2) or (3) 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 permitting the person to occupy the house, or
 - (c) for failing to comply with the condition,
- as the case may be.
- (6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine.
- (7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).
- (7B) 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.
- (1) For the purposes of subsection (4) 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 (9) is met.
- (2) 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.
- (3) In subsection (9) “relevant decision” means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

263 Meaning of “person having control” and “person managing” etc.

- (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 (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;
 and includes, where those rents or other payments are received through another person as agent or trustee, that other person.
- (4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii).
- (5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

Housing and Planning Act 2016

Chapter 4 RENT REPAYMENT ORDERS

Section 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)	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	This Act	section 21	breach of banning order

- (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).

Section 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.
- (3) A local housing authority may apply for a rent repayment order only if—
 - (a) the offence relates to housing in the authority's area, and
 - (b) the authority has complied with section 42.
- (4) In deciding whether to apply for a rent repayment order a local housing authority must have regard to any guidance given by the Secretary of State.

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).

Section 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 rent paid during the period mentioned in the table.

If the order is made on the ground that the landlord has committed ***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.