



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

Case reference : **LON/00BE/HMF/2025/0718**

Property : **31 Rope Street, London SE16 7 FB**

Applicants : **(1) Torunn Sorlie
(2) Guillaum Marc-Alex Guinard**

Representative : **Ms Dorrelly-Jackson, Justice for Tenants**

Respondents : **(1) Kilmas Jurevicius
(2) Emily Rose Flamina Arno (aka Emilia Rose Arno)**

Representative : **Mr James Rudall, counsel**

Type of application : **Rent repayment order – s.41 Housing and Planning Act 2016**

Tribunal members : **Judge Tagliavini
Mr S Mason FRICS**

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

Date of hearing : **19 September 2025**
Date of decision : **29 October 2025**

DECISION

The tribunal's decision

- (1) The tribunal refuses the application for a rent repayment order.
 - (2) The tribunal refuses the applicants' application for costs under r.13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
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The application

1. This is an application made pursuant to s.41 of the Housing and Planning Act 2016 which states:

(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.

2. The applicants allege the respondents have committed an offence under s.72(1) of the Housing Act 2004 by reason of having the control or managing an unlicensed house in multiple occupation, which is an offence under s.40(3) of the Housing and Planning Act 2016.

3. Section 72(1) HA 2004 states:

(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.

4. The applicants claim a RRO for the period 1 March 2023 to 22 March 2024:

- (1) Torunn Sorlie is seeking to recover the sum of £9,000.00 for the rent paid for the period between 1 March 2023 and 29 February 2024.

- (2) Guillaume Guinard is seeking to recover the sum of £9,300.00 for the rent paid for the period between 1 March 2023 and 29 February 2024.

The background

5. The subject property at **31 Rope Street, London SE16 7 FB** ('the property') comprises a four-bedroomed terraced house with a shared kitchen and bathroom/w.c. Originally, the respondents were assured shorthold tenants at the property along with the first applicant until they purchased it from the then landlord on 11 November 2022 and thereafter became resident landlords to the applicants
6. Although the property was in an area of Additional Licensing Scheme implemented by the London Borough of Southwark, the property was exempt from the licensing requirements so long as the respondents remained in occupation and there were no more than 3 persons in 2 separate households. At the time of the respondents purchase of the property, Louise, another tenant of the previous owner remained in occupation of the property together with the first applicant and the new owners, the first and second respondents.
7. Initially, the second applicant stayed on occasion as a guest and partner of the first applicant. However, after the respondents purchase of the property, the second applicant decided to remain and refused to leave despite having initially agreed to do so when asked by the respondents on several occasions, due to their concern that his presence increased the number of occupiers to 4 persons and made it necessary for the property to be licensed. Subsequently, a 'Lodger Agreement' was provided to the second applicant at his request in order to assist him with his claim for Universal Credit, that was ultimately unsuccessful. Eventually, having purchased their own property, the applicants moved out on 22 March 2024.

Litigation history

8. The application was dated 4 March 2025 and directions made by the tribunal on 28 May 2025. The hearing of the application was held on 19 October 2025.

The Law

9. The applicant asserts the respondents committed an offence under s.72(1) of the Housing Act 2004 in that they had the control or were managing the subject property. Section 263 of the Housing Act 2004 defines these terms as:

(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.

10. It is for the applicant to prove every element of the alleged offence on the criminal standard of proof i.e. beyond all reasonable doubt.

11. Section 72(5) of the Housing Act 2004 states:

(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,

...

12. The burden is on the respondents to establish the defence of ‘reasonable excuse’ on the balance of probabilities.

The hearing

13. At the hearing, the applicants were represented by Ms Dorrelly-Jackson an advocate from Justice for Tenants and the respondents were represented by Mr James Rudall of counsel. The tribunal was provided with a 121 page digital bundle and a 20 page digital reply by the applicants and a 229 page digital bundle from the respondents together with a 331 page authorities bundle.
14. The tribunal also heard oral evidence from the second applicant but the first applicant did not appear and relied instead on her written witness statement dated 18 March 2025. No application to adjourn the hearing to allow the first applicant to attend was made by Ms Donnelly-Jackson. In any event having had regard to r.34 of The Tribunal (First-tier Tribunal) (Property Chamber) Rules 2013 which states:

If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—

(a) is 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

(b) considers that it is in the interests of justice to proceed with the hearing

15. In all the circumstances, the tribunal was satisfied that it was in all the circumstances it was in the interests of justice to proceed with the hearing.

The tribunal’s reasons

16. In reaching its decisions the tribunal took into account the burden and standard of proof required in this application. It also took into account all of the written and oral evidence provided by both parties.
17. The tribunal took into account the respondents’ submissions that the property was exempt from the licensing requirements as specified in:

● *Housing Act 1988, Section 12(1) excludes licences granted by resident landlords from tenancy protections.*

• *The Housing Act 2004, Section 254-260, confirms that owner-occupied HMOs with two or fewer lodgers are exempt from mandatory licensing.*

18. The London Borough of Southwark's website states:

You do not need an additional licence if:

...

The property is owner occupied with no more than two lodgers; or

...

19. The tribunal determines that for as long as there were more than 2 lodgers in occupation with the respondents, property was not exempt from the licensing requirements. Although, the applicants were licensees rather than tenants, this does not preclude the requirement of an additional licence. The tribunal finds licence fees were paid by the applicants to the respondents and were accepted by the latter in respect of the applicants' occupation.
20. Consequently, the tribunal finds that, prima facie an offence pursuant to s.72(1) HA 2004 was committed by the respondents but finds the respondents have successfully raised a defence of 'reasonable excuse.'

Defence of reasonable excuse

21. The tribunal found the first and second respondents to be credible witnesses both in their written and oral evidence to the tribunal. The tribunal accepts the respondents' explanations that they had become reluctant landlords to the second applicant and that in their efforts to assist him with his earlier (unsuccessful) claim for Universal Credit, had been manipulated into providing him with the written Lodger Agreement dated 1 December 2022 at a monthly 'rent' of £775.00 inclusive of utilities and signed by the second applicant and the first respondent
22. The tribunal finds the first and second respondent accepted monthly payments from the first and second applicants and although they might have been reluctant to do so, created the relationship of a resident landlord and licensee with the applicants.
23. The tribunal finds the second applicant knew he was not welcome in the property once the respondents had purchased it as their first home. Further, the tribunal finds the second applicant to be a less than

credible witness who exaggerated certain aspects of the alleged 'disrepair' which included the effect of the unexpected collapse of lounge ceiling due to water damage from the bathroom and his alleged aggressive treatment by the second respondent. The tribunal finds the second applicant did this in order to paint an unsubstantiated unfavourable picture of his occupation at the property.

24. The tribunal finds the first and second applicants collectively and deliberately manipulated their continued occupation at the subject property to their advantage. This included the false promises of the second applicant to move out, so that they could remain in the property until they were ready to buy their first home together, rather than having to inconvenience themselves by finding alternative rental accommodation. The tribunal finds the applicants did this, despite assuring the respondents on several occasions the second applicant was willing to leave and knowing of the difficulties the second applicant's presence created for the respondents and both of the applicants being financially able to rent other accommodation.
25. The tribunal finds the respondents were aware of the additional licensing requirements from an early stage of their ownership of the property and made numerous enquiries to ascertain whether or not the property was exempt. The tribunal finds the London Borough of Southwark's website was less than clear as to the exemptions and this caused confusion for the respondents.
26. The tribunal finds the respondents did their best to avoid 'falling foul' of the additional licensing requirements but were actively prevented from doing so by the conduct of the second applicant.
27. The tribunal finds the first applicant's relationship with the respondents, first as co-tenants then as a lodger/resident landlords was initially harmonious and friendly. However, as the first applicant did not attend to give oral evidence in support of the application the tribunal finds the witness statement provided by the first applicant to be of limited assistance. Further, the tribunal finds that, were it not for the presence of the second applicant and the first applicant's partner, she would not be entitled to seek a rent repayment order due to the application of the exemption to resident landlords. Although, the first applicant did not attend the hearing and therefore her evidence could not be tested in cross-examination, the tribunal finds that she knew and encouraged the second applicant to stay in the property and knew of the difficulties this presented to the respondents.
28. Although the tribunal was referred to previous case law on what constitutes a 'reasonable excuse' the tribunal considered all of the circumstances that arose in this particular application.

29. In conclusion, the tribunal finds the respondents have successfully raised a defence of ‘reasonable excuse’ to the offence of having the control of and managing an unlicensed property.’ Therefore, the tribunal is not required to go onto consider the issue of quantum; *Acheampong and Roam & Others* [2024] UKUT 40 (LC). However, had it been required to do so the tribunal would have reduced any award to the nominal sum of £1.00 having regard to the conduct of the applicants described above.

Rule 13 respondents’ application for costs

30. Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 states:

13.—(1) Subject to paragraph (1ZA), the Tribunal may make an order in respect of costs only—(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;

(b) if a person has acted unreasonably in bringing, defending or conducting proceedings...

31. At the end of the oral hearing the respondents made an application for costs in the sum of £17,013.00 of which £6,840.00 and £576.00 represented time spent by the respondents personally and therefore, would not in any event be recoverable.
32. The respondents provided lengthy written reasons in support of this application to which Ms Dorrelly-Jackson responded with oral arguments.
33. In reaching its decision the tribunal, had regard to *Willow Court Management (1985) Ltd v Alexander* [2016] 0290 UKUT (LC) and the three stage test when considering an application for r.13 costs.. In considering the first stage as to whether the applicants had made or conducted the application unreasonably, the tribunal finds the applicants, although unsuccessful in their application, the tribunal finds that the facts, did, on their face raise an arguable case, although it has proved to be ultimately unsuccessful.
34. Although the relationship between the parties had clearly broken down and numerous adverse allegations of impropriety have been levied by the respondents against the applicants, to support their application for costs. However, the tribunal finds these are insufficient to demonstrate that the applicants knowingly or vexatiously brought and pursued an application which clearly could not succeed.

35. As the high bar of ‘unreasonableness’ at the first stage of the ‘Willow’ test has not been met, the tribunal is not required to consider the appropriateness of a costs order or the quantum.
36. Therefore, the application for costs is refused.

Name: Judge Tagliavini

Date: 29 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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).