



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

Case reference : **HAV/00MR/HMF/2025/0608**

Property : **15 Northcote Road, Portsmouth, PO4
0LH**

Applicant : **Alexandra de Oliverira Martins**

Representative : **In person**

Respondent : **Dayna Pureza**

Representative : **n/a**

Type of application : **Tenant's application for a Rent
Repayment Order under ss. 40, 41, 43 &
44 of the Housing and Planning Act
2016**

Tribunal members : **Mr Richard Waterhouse MA LLM FRICS
Mr Colin Davies FRICS**

**Date and venue of
hearing** : **13 November 2025, Havant Justice
Centre, The court House, Elmleigh
Road, Havant PO9 2AL**

Date of decision : **13 November 2025**

DECISION

Decisions of the Tribunal

- (1) The Tribunal does not make a Rent Repayment Order against Dayna Pureza in respect of 15 Northcote Road Portsmouth PO4 0LH.
- (2) The Tribunal declines to make an Order for the reimbursement of the application and hearing fees.

Introduction

1. The Applicant tenant made an application dated 11 November 2024 for a rent repayment order (“**RRO**”) against the Respondent landlord under sections 40-44 of the Housing and Planning Act 2016 (“**the 2016 Act**”).
2. It is asserted that the Respondent committed an offence of control or management of an unlicensed house in multiple occupation (“**HMO**”) contrary to section 72(1) of the Housing Act 2004 (“**the 2004 Act**”), which is an offence under section 40(3) of the 2016 Act.
3. The Applicant tenant seeks a RRO in the sum of **£700.00**, for the period 31 August 2024 to 17 September 2024.
4. The Tribunal gave Directions dated 11 June 2025, requiring the Respondent to provide its Reply to the Applicant’s papers in response to the application by 9 July 2025. It did not do so and has made no subsequent application seeking permission to file a statement of case, witness evidence or any other documentation. It has wholly failed to respond to the application and did not in the event appear in person or by way of a representative at the hearing.
5. The Tribunal initially had sent post to the incorrect address. This was identified and a letter notifying the Respondent of this error was sent to the address of the subject property 15 Northcote Road on 20 August 2025. The letter included copies of all previous correspondence that had been incorrectly sent. The letter drew attention to paragraph 14 of the Directions which required the Respondent to send their response by 4pm on 3 September 2025.
6. The initial directions of the 11 June 2025, set out a timetable to enable the Tribunal to consider whether the application can be accepted. The Applicant made an application for case management or interim order dated 25 June 2025. This sought to extend the timetable in the directions for the Applicant to provide further evidence. An amended Direction with a revised set of timings were provided on the 2 July 2025.
7. The Applicant submitted a further application for case management or interim order dated 9 July 2025, to extend the timings in the directions

to allow the local authority to submit a witness statement. This was considered by the Tribunal on the 17 July 2025 and timings were amended.

8. By letter dated 20 August the Tribunal wrote to the Respondent at their correct address and forwarded copies of all correspondence that had previously been sent to an incorrect address.
9. By directions of the 11 September 2025, the Applicant shall by 30 September 2025 send to the Respondent; copies of any additional documents she intends to rely upon, and any witness statements. The Respondent to send to the Applicant by 14 October 2025 (i) a signed and dated statement of truth or reasons for not doing so (ii) evidence of the amount of any universal credit/ housing benefit/rent received in the period (iii) evidence of financial circumstances including any outgoings, such as utility bills, paid by the landlord for the let property during the period.(iv) a statement as to any circumstances that could justify a reduction in the amount of any rent repayment order (v) any other documents to be relied upon (vi) a copy of all correspondence relating to any application for a licence and any licence that has now been granted. The Applicant has a right of reply by 21 October 2025. The Applicant to provide the bundle by 28 October 2025.
10. On the 4 October 2025 the Applicant submitted a case management and interim order requesting a witness they wished to call who resides in Northern Ireland to be permitted to join by video link. Permission was granted on 14 July 2025.
11. On the 20 October 2025 the Applicant submitted an application for a case management and interim order requesting “the respondent has ignored the court directions on multiple occasions and failed to provide information relevant to the case. I am seeking sanctions.” The Tribunal legal officer wrote to the Applicant confirming the application would be passed to the Tribunal for consideration at the hearing. It was also noted that the Applicant attempted to hand deliver a copy of their application to the Respondent on 21 October 2025.
12. The bundle filed comprised 88 pages.
13. Whilst the Tribunal makes it clear that it has read the Applicant’s bundle, the Tribunal does not refer to every one of the documents in detail in this Decision, it being impractical and unnecessary to do so. Where the Tribunal does not refer to specific documents in this Decision, it should not be mistakenly assumed that the Tribunal has ignored or left them out of account.
14. This Decision seeks to focus solely on the key issues. The omission to refer to or make findings about every statement or document mentioned

is not a tacit acknowledgement of the accuracy or truth of statements made or documents received. Not all of the various matters mentioned in the bundles or at the hearing require any finding to be made for the purpose of deciding the relevant issues in this application. The Decision is made on the basis of the evidence and arguments the Applicant presented (in the absence of the Respondent), as clarified by the Tribunal in the hearing, and is necessarily limited by the matters to which the Tribunal was referred.

Hearing

15. This was a face-to-face hearing.
16. The hearing took place at the Havant Justice Centre on the 13 November 2025. The Applicant Alexandra de Oliverira Martins attended in person; one Applicant witness Ana Costa de Oliverira attended via link from Northern Ireland and a second Applicant witness Jonathan E Mercer attended in person. The Respondent did not attend.
17. As mentioned above, the Respondent neither attended, nor was represented. We considered at the outset whether to permit the hearing to proceed in the Respondent's absence. We considered the provisions of Rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("**2013 Rules**"). We noted that Tribunal staff had written to the Respondent at the subject property on several occasions and had sent notification of the hearing date. The Tribunal was accordingly satisfied that the Respondent had been notified of the hearing.
18. We also considered the overriding objective in Rule 3 of the 2013 Rules, requiring us to deal with the case in ways proportionate to the importance of the case, the complexity of the issues, the anticipated costs and resources of the parties and of the Tribunal, and in particular avoiding delay. We found (i) that the Applicant was in a position to proceed with the Application, (ii) she had complied with the Directions given, and (iii) the Respondent had elected deliberately to ignore the proceedings and to have failed or refused to comply with Directions or to respond to correspondence. We concluded that it would be unfairly prejudicial to the Applicant to delay hearing the application, and that it was in the interests of justice to proceed with the hearing in the Respondent's absence.
19. The Applicant explained her application and answered a series of questions posed by the Tribunal members. We are grateful to her for her assistance.

The Property

20. The Tribunal accepted the Applicant's uncontested evidence that the property is a terraced house. On the ground floor there is one room used as a living room, one room used as a bedroom, and a kitchen, beyond which there is a garden. On the first floor there are two rooms each used as a bedroom and a further room which is a bathroom. The property is in a residential street within the City of Portsmouth.
21. The Applicant was introduced to the property through a Facebook search conducted by the Applicant's mother Ana Costa de Oliverira looking for accommodation for her daughter in the City of Portsmouth. The search made a link with Dayna Pureza of the subject property. This formed evidence of the Applicant and the Applicant's mother Ana Costa de Oliverira. The Tribunal accepted this.
22. The Applicant was asked to pay £700 and understood she was entering into a tenancy. The Applicant paid £550 attributable to rent and a further £150 attributable to a deposit. The money was paid in cash other than £220, which was paid via bank transfer. This forms part of the evidence [5 and 6] and is accepted by the Tribunal.
23. The period of time for which the rent was to cover ran from 31 August 2024 to 18 October 2024. The rent covered utilities these were not understood by the Applicant to be charged separately. The Tribunal accepted this uncontested evidence.
24. When the tenant viewed the property in advance of moving in, she was shown a room that was at the time occupied by an individual and their dog. On the day of moving in the Applicant found the room to be occupied still, and Dayna Pureza said that the Applicant could take her bed, located in a room on the first floor and that Dayna Pureza would sleep on the sofa. The Applicant declined this and slept on the sofa in the living room. The Applicant was working night shifts at a nearby hospital and so would sleep in the communal living room during the day. This is accepted by the Tribunal.
25. The Applicant asked for a rental agreement in writing on her first day. Dayna Pureza declined to provide one. The Applicant drew a tenancy agreement up herself, but Dayna Pureza declined to sign it. The Tribunal is satisfied there is no evidence of any signed tenancy agreement.
26. After eight days, 8th September 2024, the occupant of the ground floor room, the man and dog moved out, and the Applicant moved in. At the same time the property was occupied also by Dayna Pureza, and another individual who the Applicant only knew as Alex. The Applicant contends that Dayna Pureza requested from the start she present herself to the other two occupants as Dayna Pureza's niece if she was asked by them her status.

27. The Applicant complains of examples of controlling behaviour by Dayna Pureza during the stay and in particular on the day of moving out. This forming parts of the witness statements of the Applicant, and the Applicant's witnesses, Ana Costa de Oliverira and Jonathan E Mercer. The bundle contains copies of the rules in the form of notes attached to doors and around the house [49, 50, 51, 52, 53, 54] The Tribunal is satisfied this occurred.
28. The Applicant eventually moved out on 17 September 2024 some 18 days after arriving. The Applicant's witness Jonathan E Mercer evidence supports this, and the Tribunal is satisfied this occurred.
29. The Applicant wrote to Portsmouth City Council to establish whether the property had a licence.
30. In a letter dated 16 July 2025 Portsmouth City Council wrote to the Applicant saying "The council visited the property at the end of 2024 to investigate concerns that it should have been licensed. The council were however unable to substantiate the claim the property was occupied by 3 or more persons from 2 or more households and so is unable to provide a witness statement. Based on the information available to the council, it is unable to say whether the property requires a licence."
31. The Tribunal did not inspect the Property, where neither party requested us to do so, and we did not consider it necessary or proportionate to do so to determine the application before us.

Applicant's Case

32. The Applicant stated that the Property did not have a licence, but required one, for the entirety of the period 31 August 2024 to 17 September 2024.
33. The Applicant's complained of controlling and abusive behaviour of Dayna Pureza during her stay. We accept the Applicant's evidence, and we accept that the Respondent's lack of response caused her to approach the local authority to seek assistance, which led in turn to the inspections by Portsmouth City Council.
34. The Applicant at [2] includes an email from the Applicant to Martina Repic of Portsmouth City Council, where the Applicant states "There are currently three people in the property. There was four people in the property for the first week that I paid rent. Dayna Pureza is the person I am paying rent to. She told me she was the landlord when I moved in but now says that she is also a tenant. I do not know who actually owns the property."

35. During the Applicant's oral evidence, an incident came to light where a man present in the house who it was purported may be the owner.

Relevant statutory provisions

Housing and Planning Act 2016 (“the 2016 Act”)

Section 40

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.
- (2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to – (a) repay an amount of rent paid by a tenant ...
- (3) A reference to “an offence to which this Chapter applies” is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

| | <i>Act</i> | <i>section</i> | <i>general description of offence</i> |
|---|-----------------------------------|---------------------------|--|
| 1 | Criminal Law Act 1977 | section 6(1) | violence for securing entry |
| 2 | Protection from Eviction Act 1977 | section 1(2), (3) or (3A) | eviction or harassment of occupiers |
| 3 | Housing Act 2004 | section 30(1) | failure to comply with improvement notice |
| 4 | | section 32(1) | failure to comply with prohibition order etc |
| 5 | | section 72(1) | control or management of unlicensed HMO |

| | | | |
|---|----------|---------------|---|
| 6 | | section 95(1) | control or management of unlicensed house |
| 7 | This Act | section 21 | breach of banning order |

Section 41

- (1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.
- (2) A tenant may apply for a rent repayment order only if – (a) the offence relates to housing that, at the time of the offence, was let to the tenant, and (b) the offence was committed in the period of 12 months ending with the day on which the application is made.

Section 43

- (1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).
- (2) A rent repayment order under this section may be made only on an application under 41.
- (3) The amount of a rent repayment order under this section is to be determined in accordance with – (a) section 44 (where the application is made by a tenant) ...

Section 44

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.
- (2) The amount must relate to rent paid during the period mentioned in the table.

| <i>If the order is made on the ground that the landlord has committed</i> | <i>the amount must relate to rent paid by the tenant in respect of</i> |
|--|---|
| an offence mentioned in row 1 or 2 of the table in section 40(3) | the period of 12 months ending with the date of the offence |
| an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3) | a period, not exceeding 12 months, during which the landlord was committing the offence |

- (3) The amount that the landlord may be required to repay in respect of a period must not exceed – (a) the rent paid in respect of that period, less (b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.
- (4) In determining the amount the Tribunal must, in particular, take into account – (a) the conduct of the landlord and the tenant, (b) the financial circumstances of the landlord, and (c) whether the

landlord has at any time been convicted of an offence to which this Chapter applies.

Housing Act 2004 (*"the 2004 Act"*)

Section 95

- (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.

Section 263

- (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 ... rents or other payments from ... 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 ...

Tribunal's analysis

36. The evidence from the Applicant is that the property was a dwelling which was required to be licensed but was not licensed at any point during the period of the claim. Written evidence from the Licensing Authority Portsmouth City Council does not support this, they say they do not have sufficient evidence to conclude this.
37. Additionally, there is no certainty as to who actually may be running the premises. The Tribunal has heard evidence the rent is paid to Dayna Pureza, but also that Dayna Pureza may or may not be a tenant and that an unknown man maybe the owner.
38. Having considered the evidence and being conscious that the test is of criminal behaviour that is a test of beyond reasonable doubt. The Tribunal cannot conclude that the property, beyond reasonable doubt,

required a licence nor that Dayna was, beyond reasonable doubt a “person having control of or managing” the Property within the meaning of section 263 of the 2004 Act.

39. As a consequence, therefore, the Tribunal declines to make a Rent Repayment Order and makes no orders in respect of application or hearing fees.

Reimbursement of Tribunal Fees

40. The Applicant has applied under paragraph 13(2) of the 2013 Rules for an order that the Respondent reimburse her application and hearing fees, in the sums of £110 and £227, respectively.
41. In light of our findings, we consider do not make such an order.

Name: Chair : Waterhouse
FRICS

Date: 13 November 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.

- (A) 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.
- (B) 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.
- (C) 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.
- (D) 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.
- (E) If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).