



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

Case Reference : **BIR/00FY/HMK/2024/0618**

Subject Property : **106 Manton Crescent
Lenton Abbey
Beeston
Nottingham NG9 2GF**

Applicants : **(1) Ian Murrin
(2) Danai Skouteri**

Respondent : **Parliament House Limited**

Type of Application : **Application under section 41(1) of the
Housing and Planning Act 2016 for a
rent repayment order**

Date of Hearing : **28 October 2025**

Tribunal Members : **Deputy Regional Judge Nigel Gravells
Mr Alan McMurdo MCIEH**

Date of Decision : **27 November 2025**

Date of Issue : **15 December 2025**

DECISION

Introduction

- 1 This is a decision on an application for a rent repayment order under section 41 of the Housing and Planning Act 2016 ('the 2016 Act').
- 2 The Applicants are Ian Murrin and Danai Skouteri, former tenants of 106 Manton Crescent, Lenton Abbey, Beeston, Nottingham NG9 2GF ('the subject property'). The Respondent is Parliament House Limited, the freeholder of the subject property.
- 3 The Housing Act 2004 ('the 2004 Act') introduced licensing for certain categories of residential accommodation. Under Part 2 of the 2004 Act, licensing is mandatory for all houses in multiple occupation (HMOs) which are occupied by five or more persons forming two or more households; and local housing authorities may designate areas in their district as subject to additional licensing in relation to other HMOs not otherwise required to be licensed. Under Part 3 of the 2004 Act, local housing authorities may designate areas in their district as subject to selective licensing in relation to other rented houses not otherwise required to be licensed.
- 4 Under Part 3 Nottingham City Council has designated significant parts of the city as subject to selective licensing. The first selective licensing scheme operated from 1 August 2018 to 31 July 2023. The second scheme started on 1 December 2023. No selective licensing scheme was in operation from 1 August 2023 to 30 November 2023 inclusive.
- 5 Under section 95 of the 2004 Act a person who has control of or manages a house that is required to be licensed under Part 3 but is not so licensed commits an offence.
- 6 Commission of an offence under section 95 may lead to criminal prosecution and conviction or to the imposition by the local housing authority of a financial penalty pursuant to section 249A of the 2004 Act. Furthermore, under section 43 of the 2016 Act the Tribunal may make a rent repayment order in favour of the occupier (or former occupier) if it is satisfied beyond reasonable doubt that the landlord has committed an offence under section 95 of the 2004 Act, *whether or not the landlord has been convicted of that offence*.

Factual background

- 7 The subject property is a two-bedroomed terraced house. The Applicants occupied the property from 13 January 2023 until 13 December 2023. (The tenancy was originally granted for twelve months from 13 January 2023; but, in response to a section 21 notice, the Applicants moved out before the end of the original tenancy.
- 8 The rent payable under the tenancy agreement was £750.00 per calendar month.
- 9 By an application dated 13 November 2024, the Applicants have applied for a rent repayment order under section 41 of the 2016 Act. They alleged that from 13 January 2023 to 31 July 2023 and again from 1 December 2023 to 13 December 2023 the Respondent had control of or was managing the subject

property, which, as a property subject to the successive Nottingham City Council selective licensing schemes (see paragraph 4 above), was required to be licensed pursuant to Part 3 of the 2004 Act but was not so licensed.

- 10 On 22 December 2024 the Tribunal issued Directions for the determination of the application.
- 11 A hearing was held on 28 October 2025. The Applicants were represented by Danai Skouteri. The Respondent was represented by Jessica Orrell.

Statutory regime

- 12 The statutory regime is set out in Chapter 4 of Part 2 of the 2016 Act. So far as relevant to the present application, the Act provides as follows –

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 ...

(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
6	Housing Act 2004	section 95(1)	control or management of unlicensed house

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.

...

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);

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.

<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 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.

Determination of the Tribunal

13 The Tribunal considered the application in four stages –

(i) Whether the Tribunal was satisfied beyond reasonable doubt that the Respondent had committed an offence under section 95(1) of the 2004 Act in that at the relevant time the Respondent was a person in control of or managing a house that was required to be licensed under Part 3 of the 2004 Act but was not so licensed.

(ii) Whether the Applicant was entitled to apply to the Tribunal for a rent repayment order.

(iii) Whether the Tribunal should exercise its discretion to make a rent repayment order.

(iv) Determination of the amount of any order.

Offence under section 95(1) of the 2004 Act

Prima facie offence

14 In accordance with section 43(1) of the 2016 Act, the Tribunal was satisfied beyond reasonable doubt that, subject to the establishment of a reasonable excuse defence (see paragraphs 23-29 below), the Respondent, as landlord of the subject property, had committed an offence listed in section 40 of the 2016 Act, namely an offence under section 95(1) of the 2004 Act, which provides –

A person commits an offence if he is a person having control of or managing a house which is required to be licensed under [Part 3] ... but is not so licensed.

- 15 As noted above, the Applicants allege that from 13 January 2023 to 31 July 2024 and again from 1 December 2023 to 13 December 2023 the Respondent was controlling or managing the subject property, which, as a property subject to the successive Nottingham City Council selective licensing schemes, was required to be licensed pursuant to Part 3 of the 2004 Act but was not so licensed.
- 16 The Applicants do not allege that the Respondent was committing a licensing offence during the period 1 August 2023 to 30 November 2023. They acknowledge that during that period there was no selective licensing scheme in operation and therefore no requirement for the Respondent to license the subject property.
- 17 Despite the lapse of time between (i) the Respondent receiving a copy of the Applicants' application and being informed of the ground on which the Applicants relied and (ii) the hearing of the application, it was only at the hearing that the Respondent asserted that the subject property was outside the designated area of the first selective licensing scheme in operation from 1 August 2018 to 31 July 2023, including therefore the first period of the Applicants' claim.
- 18 The documentation provided by the Respondent at the hearing failed to prove that assertion and the Tribunal directed that the Respondent provide conclusive evidence within seven days. In fact the Applicants provided that evidence in the form of an email from Ewa Pochludka, Licensing Support Officer in the Nottingham City Council Selective Licensing Team, confirming that the subject property was indeed within the designated area of the first selective licensing scheme. When this was copied to the Respondent, the matter was not pursued.
- 19 The Tribunal is therefore satisfied beyond reasonable doubt that from 13 January 2023 to 31 July 2023 the subject property was a house subject to selective licensing under Part 3 of the 2004 Act and that the property was not licensed.
- 20 It is not disputed that from 1 December 2023 to 13 December 2023 the subject property was a house subject to selective licensing under Part 3 of the 2004 Act and that the property was not licensed.
- 21 The Tribunal is satisfied that at all material times the Respondent was the landlord of the subject property.
- 22 The Tribunal is further satisfied that at all material times the Respondent was the person managing the subject property within the meaning of section 263(3) of the 2004 Act: it was the owner of the property and received (whether directly or through an agent) rent from persons in occupation of the property.

Reasonable excuse defence

- 23 Although the Respondent did not expressly raise a defence of reasonable excuse under section 95(4) of the 2004 Act, the substance of its representations requires the Tribunal to consider whether the Respondent

might have such a defence: see *IR Management Services Limited v Salford City Council* [2020] UKUT 81 at paragraph 40.

24 Section 95(4) provides –

In proceedings against a person for an offence under subsection (1) ... 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)

25 Although the Tribunal must be satisfied beyond reasonable doubt as to the elements of the offence set out in section 95(1), the standard of proof in relation to the defence in section 95(4) is the balance of probabilities.

26 The Respondent did not make any representations in relation to the period 13 January 2023 to 31 July 2023, presumably because of its mistaken belief that a licence was not required during that period. The relevant representations are confined to the period 1 December 2023 to 13 December 2023. In respect of that period the Respondent stated that it had decided to sell the property because the continuing remedial works to the property made its retention financially unviable. It therefore served a section 21 notice on the Applicants and offered the property for sale at auction. Given the cost involved in applying for a licence which would only be required for a matter of days, and the protracted application process, the Respondent took the deliberate decision not to apply for a licence.

27 While the Tribunal understands the practical reasons for the Respondent's decision, the question for the Tribunal is whether the Respondent had a reasonable excuse for managing an unlicensed house between 1 December 2023 and 13 December 2023. Knowing that the property was required to be licensed, the Respondent could have sought a temporary exemption notice under section 86 of the 2004 Act.

28 The Tribunal is not satisfied on a balance of probabilities that the Respondent had a reasonable excuse for managing an unlicensed house during the period 1 December 2023 to 13 December 2023.

29 In the absence of the defence of reasonable excuse, the Tribunal is satisfied beyond reasonable doubt that the Respondent committed an offence under section 95(1) of the 2004 Act during the periods 13 January 2023 to 31 July 2023 and 1 December 2023 to 13 December 2023.

Entitlement of the Applicant to apply for a rent repayment order

30 The Tribunal determined that the Applicants were entitled to apply for a rent repayment order pursuant to section 41(1) of the 2016 Act. In accordance with section 41(2), the subject property was let to the Applicants throughout the period that the Respondent was committing the relevant offence; and the offence was committed in the period of 12 months ending with the day on which the application was made (14 November 2024).

Discretion to make rent repayment orders

31 Since the Tribunal is satisfied beyond reasonable doubt that the Respondent committed an offence under section 95(1) of the 2004 Act, a ground for making a rent repayment order has been made out.

32 Even if the Tribunal finds that a relevant offence has been committed, it has a discretion not to make a rent repayment order (see section 43(1) of the 2016 Act). However, in the decision of the Upper Tribunal in the *London Borough of Newham v John Francis Harris* [2017] UKUT 264 (LC) Judge McGrath stated –

I should add that it will be a rare case where a Tribunal does exercise its discretion not to make an order. If a person has committed a criminal offence and the consequences of doing so are prescribed by legislation to include an obligation to repay rent ... then the Tribunal should be reluctant to refuse an application for rent repayment order.

33 The Tribunal is satisfied that there is no ground on which it could be argued that it is not appropriate to make a rent repayment order in the circumstances of the present case.

Amount of rent repayment order

34 In accordance with section 44(2) of the 2016 Act, the amount of an order must relate to rent paid in a period, not exceeding 12 months, during which the landlord was committing an offence under section 95(1) of the 2004 Act ('the relevant period').

35 In accordance with section 44(3) of the 2016 Act, the amount that the landlord is required to repay in respect of the relevant period must not exceed the rent paid by the tenant in respect of that period less any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.

36 In respect of the periods during which the Respondent was committing the offence under section 95(1) of the 2004 Act - 13 January 2023 to 31 July 2023 and 1 December 2023 to 13 December 2023 - the Applicants paid rent totalling £5,259.68.

37 The Applicants were in receipt of universal credit. The housing element of universal credit for the subject property was £550.02 per assessment period.

38 In order to calculate the amount of the housing element to be deducted from the rent paid, it is necessary to calculate for each assessment period (i) the total nominal universal credit entitlement, (ii) the total actual amount of universal credit paid after deductions, (iii) the percentage of the nominal entitlement that the actual amount paid represents and (iv) that percentage of the housing element of universal credit for the subject property.

39 The application of that methodology is set out in the following table –

Assessment period	Nominal UC entitlement (A)	Actual UC paid (B)	Percentage paid (B/A x 100 (C))	UC Housing element	Percentage of housing element (£550.02 x C)
30/12-29/1	£1674.60	£1059.60	63.27%	£550.02	£190.84*
30/1-26/2	£1674.60	£1092.93	65.27%	£550.02	£359.00
27/2-29/3	£1674.60	£1092.82	65.26%	£550.02	£358.94
30/3-29/4	£1674.60	£966.14	57.69%	£550.02	£317.30
30/4-29/5	£1788.48	£1183.79	66.19%	£550.02	£364.06

30/5-29/6	£1788.48	£1026.58	57.40%	£550.02	£315.71
30/6-29/7	£1788.48	£1089.30	60.91%	£550.02	£335.02
30/7-29/8	£1788.48	£1089.41	60.91%	£550.02	£21.61*
30/11-29/12	£1788.48	£1036.75	59.47%	£550.02	£148.80*
					£2411.28

* Apportioned to reflect the proportion of the assessment period in respect of which the Applicants paid rent.

- 40 The amount of universal credit to be deducted from the gross rent paid is £2,411.28.
- 41 The total gross rent paid during the relevant period was £5,259.68. The amount of the housing element of universal credit paid in the relevant period was £2,411.28. The total net rent paid in the relevant period was £5,259.68 less £2,411.28 = £2848.40, which is therefore the maximum amount of a rent repayment order.
- 42 In accordance with section 44(4) of the 2016 Act, in determining the amount of any rent repayment order, the Tribunal must, in particular, take into account the conduct of the parties, the financial circumstances of the landlord and whether the landlord has been convicted of any of the offences listed in section 40 of the 2016 Act.
- 43 The proper approach that the Tribunal is required to take at the final stage of the determination of the amount of any rent repayment order has been considered by the Upper Tribunal (Lands Chamber) in a series of recent decisions: see *Vadamalayan v Stewart* [2020] UKUT 183 (LC), *Ficcara v James* [2021] UKUT 38 (LC), *Awad v Hooley* [2021] UKUT 55 (LC), *Williams v Parmar* [2021] UKUT 244 (LC), *Aytan v Moore* [2022] UKUT 27 (LC), *Acheampong v Roman* [2022] UKUT 239 (LC), *Dowd v Martins and others* [2022] UKUT 249 (LC).
- 44 In *Dowd v Martins and others*, the Upper Tribunal endorsed the approach summarised in paragraph 21 of the decision in *Acheampong v Roman*. The FTT should:
- Ascertain the whole of the rent for the relevant period.
 - Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal will be able to make an informed estimate.
 - 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.
 - Consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in section 44(4).

- 45 Applying steps (a) to (d) above to the present case, the Tribunal has already determined step (a): see paragraphs 34-41 above.
- 46 Step (b) is not relevant in the circumstances of the present case.
- 47 Turning to step (c), the Upper Tribunal has made it clear that in applying section 44(4)(a) of the 2016 Act, the conduct of the Respondent landlord also embraces the seriousness of the offence committed by the Respondent landlord that is the pre-condition for the making of a rent repayment order. The offence of managing an unlicensed house is a serious offence, although it is clear from the scheme and detailed provisions of the 2016 Act that it is not normally regarded as the most serious of the offences listed in section 40(3): see *Daff v Gyalui* [2023] UKUT 134 (LC) at paragraphs 48-49 and *Irvine v Metcalfe* [2023] UKUT 283 (LC) at paragraph 72. The Tribunal determines that the relatively less serious offence committed by the Respondent should be reflected in a deduction from the maximum amount of the rent repayment order identified in paragraph 41 above. However, the appropriate deduction is less than it might otherwise have been: the Tribunal notes that the Respondent, a professional landlord, failed to inform itself of both the 2018-2023 and 2023-2028 selective licensing schemes; and in December 2023, when it became aware of the need for a licence for the subject property, it made a conscious decision not to apply for a licence.
- 48 Turning to step (d), the Applicants raised a number of issues in relation to the conduct of the Respondent. They asserted that the Respondent failed to provide an Energy Performance Certificate or a Gas Safety Certificate for the subject property. However, it appears that these documents existed, although they may not have been provided to the Applicants. They also asserted that the property suffered from mould and damp issues. The Respondent carried out work to address the damp (as part of a wider programme to replace the kitchen), although the Applicants question how successful the work was. In determining whether these issues should be reflected in any adjustment to the amount of the rent repayment order, the Tribunal notes the lack of conclusive evidence as to the cause of any mould and damp. It also notes that the Applicants expressly stated that their rent repayment application was based on the alleged licensing offence and not on the condition of the property. The Tribunal determines that it would not be appropriate to make any adjustment to the amount of the rent repayment order.
- 49 Section 44(4)(b) of the 2016 Act requires the Tribunal to take into account the financial circumstances of the landlord. The Respondent provided no evidence that would make it appropriate to make any further adjustment of the amount of the rent repayment order.
- 50 Section 44(4)(c) of the 2016 Act requires the Tribunal to take into account whether the landlord has at any time been convicted of any of the offences listed in section 40(3). The Respondent has no such convictions.
- 51 As Sir Timothy Fancourt stated in *Williams v Parmar* (at paragraph 24), the wording of section 44(4) leaves open the possibility of there being factors other than those expressly referred to in paragraphs (a) to (c) that, in a particular case, may be taken into account and affect the amount of the rent repayment order. The Tribunal determines that there are no such factors in the present case.

- 52 Finally, the Tribunal notes (i) the reminder from Sir Timothy Fancourt in *Williams v Parmar* (at paragraph 43) that *Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for Local Authorities* identifies the factors that a local authority should take into account in deciding whether to seek a rent repayment order as being the need to: punish offending landlords; deter the particular landlord from further offences; dissuade other landlords from breaching the law; and remove from landlords the financial benefit of offending; and (ii) the clear indication (at paragraph 51) that the factors identified in the Guidance will generally justify an order for repayment of at least a substantial part of the rent.
- 53 The Tribunal determines that, in order to reflect the factors discussed in paragraphs 42-52 above, the maximum repayment amount identified in the paragraph 41 above (£2848.40) should be discounted by 50 per cent.
- 54 The Tribunal therefore orders under section 43(1) of the 2016 Act that the Respondent repay to the Applicants the sum of £1424.20.

Reimbursement of fees

- 55 The Applicants have applied under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for the Tribunal to make an order requiring the Respondent to reimburse to the Applicants their application fee (£110.00) and the Tribunal hearing fee (£220.00).
- 56 Since the Tribunal has made a rent repayment order in favour of the Applicants, albeit in a lesser amount than that applied for, it is appropriate that they should have their fees reimbursed.

Summary

- 57 The Tribunal orders under section 43(1) of the 2016 Act that the Respondent repay to the Applicants the sum of £1424.20 not later than **22 December 2025**.
- 58 The Tribunal orders under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 that the Respondent reimburse to the Applicants £110.00 in respect of the application fee and £220.00 in respect of the hearing fee not later than **22 December 2025**.

Appeal

- 59 If a party wishes to appeal this Decision, that appeal is to the Upper Tribunal (Lands Chamber). However, a party wishing to appeal must first make written application for permission to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 60 The application for permission to appeal must be received by the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- 61 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(s) for not complying with the 28-day time limit. The Tribunal will then consider the reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

62 The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking.

27 November 2025

Professor Nigel Gravells
Deputy Regional Judge