FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/38UC/HMJ/2025/0010**
Property	**:**	**Flat 2, 63 Windmill Road, Oxford OX3 7BP**
Applicants	**:**	**1. Tatjana Punger** **2. Adel Terkman**
Representative	**:**	**Justice for Tenants**
Respondents	**:**	**1. Julia Tao** **2. Helen Chen**
Representative	**:**	**Bower Bailey LLP**
Type of application	**:**	**Application by tenant for rent repayment order – Section 41 of the Housing and Planning Act 2016**
Tribunal members	**:**	**Judge Hunt** **Mr O. Miller**
Date of hearing	**:**	**12 December 2025 (remote hearing)**
Appearances at hearing	**:**	**Mr P. Eliot (for the Applicants)** **Mr O. Ejokpa (for the Respondents)**
Date of decision	**:**	**15 December 2025**

DECISION

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1. The application for a rent repayment order is refused.

REASONS

Introduction

1. The Applicants stayed at premises referred to as Room 2 or Flat 2, 63 Windmill Road, Oxford, OX3 7BP (the "Property") from 15 April 2023 until April 2024. The Applicants submit that they had rented the Property pursuant to an assured shorthold tenancy. The Respondents submit that there was no tenancy; the Applicants were staying at the Property throughout that period simply as guests at the All Seasons Guesthouse, which operated (and continues to operate) at 63 Windmill Road.

2. On 12 March 2025, the Applicants applied to this Tribunal for a rent repayment order in accordance with section 41 of the Housing and Planning Act 2016. They assert that the Respondents had committed an offence throughout their occupation of the Property by failing to license it.

3. In reaching its decision, the Tribunal considered 3 files of documents, two provided by the Applicants (initial application file and reply) and the other from the Respondents (response). It heard from all parties present and from their representatives. It also had regard to a small number of emails and message screenshots emailed to the Tribunal at the hearing. The Tribunal was grateful to all for their preparation of the papers, their helpful submissions and their assistance generally.

Relevant Law

4. Section 85 of the Housing Act 2004 requires certain houses that are occupied under tenancies to be licensed by the local housing authority, in this case Oxford City Council.

5. Section 95 of the Housing Act 2004 is as follows, so far as is relevant.

"***95 Offences in relation to licensing of houses under this Part***

(1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

…

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

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

(b) an application for a licence had been duly made in respect of the house under section 87,

and that notification or application was still effective (see subsection (7)).

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

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

6. Section 263 of the Housing Act 2004 provides a definition of "person having control" and "person managing". There was no dispute that at least the First Respondent satisfied one or other of the definitions.

7. Section 40 of the Housing and Planning Act 2016 provides that this Tribunal can make a "rent repayment order" – an order requiring a landlord to repay an amount of rent paid by a tenant – where the landlord has committed an offence under section 95(1) of the Housing Act 2004.

8. Section 41(2) of the Housing and Planning Act 2016 is as follows.

"***41 Application for rent repayment order***

(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".

Main Issue – Limitation

9. Although there were many issues in dispute, the Tribunal needed only focus on whether the Respondents were committing the alleged offence in the 12-month period leading up to the date the application for a rent repayment order was made on 12 March 2025. If not, the Tribunal would have no jurisdiction to hear the application as it would have been brought "out of time", irrespective of whether any offence may have been committed prior.

10. Ultimately, the Tribunal concluded that, even if the Respondents were required to license the Property at any point, they had a reasonable excuse for not having done so from (at the latest) 7 February 2024. They then applied for a licence on 26 March

2024. Accordingly, they would not have been committing the alleged offence at any point during the relevant 12-month period and the application for a rent repayment order had to be refused on that basis.

11. It is only necessary and proportionate to provide reasons for reaching this conclusion. Accordingly, the relevant facts and conclusions can be very swiftly stated.

12. On 23 January 2024, Oxford City Council (the "Council") sent a letter to the First Respondent. The Tribunal did not have a copy, but it appeared to relate, at least in part, to selective licensing. In light of the Council's subsequent letter dated 2 February 2024 (of which the Tribunal did have a copy), the Tribunal found that the earlier letter included an indication that the Council believed the Property required a selective licence but would investigate the matter further. The 2 February letter provided the outcome to that investigation, which was that "*legal advice has confirmed that Room 2 falls under the requirements of the Selective Licensing scheme*". The letter went on to say that the First Respondent would have to submit an application for a licence "*without delay*", giving a deadline of 23 February 2024.

13. Due to the Council considering that, up until that point, the Property formed part of All Seasons Guesthouse, there was no corresponding entry on its online licence application portal (which I will refer to as the "Database"). The First Respondent had tried to make the requested application on 7 February 2024, but had not been able to due to the Property's absence from the Database. The First Respondent accordingly raised a "missing address request" the same day and was informed that it had been passed on to the Council's licensing team who "*will be in touch with you in due course*".

14. On 21 March 2024, the Council contacted the First Respondent to state that she could "*now make an application for Flat 2 using the address of 63 Windmill Road*". The Council asked for that to be done "*without delay*". The First Respondent replied the next day to say that she had already tried on 7 February. The Council wrote back: "*The address is now available. Please try again*". This was at 14:05 on Friday 22 March 2024. On Tuesday 26 March 2024, the First Respondent confirmed that she had made the application, quoting a reference number. The Council confirmed it had been submitted. The Applicants then vacated the Property before the application was processed. It is not relevant to these proceedings, but the Tribunal was informed that the application was then withdrawn as the Respondents did not wish to let the Property out other than in the course of their guesthouse business, so no longer required a licence.

15. As far as the Tribunal was concerned, it was amply satisfied that, for the critical period in the timeline (being the start of the 12-month period preceding the date of the application), the Respondents had a reasonable excuse for having failed to apply for a licence for the Property. They had sought to do so on 7 February 2024 and had to then wait for the Council to update its Database. As soon as that was done, and the First Respondent was informed of that, they made the application within two business days. That is not a significant delay such as to deprive the Respondents of their "reasonable excuse". The Tribunal noted that the Council had previously allowed the Respondents three weeks to make the application, and they had done so within 5 days.

16. The application for a rent repayment order was not made until 12 March 2025 (although it appears to have been signed on 18 February 2025). Even if it was submitted on 18 February 2025, it makes no difference. It might be arguable that, up until some date prior to 7 February 2024, the Respondents had no reasonable excuse for failing to apply for a licence. But from then on, they plainly did have such reasonable excuse up until they made the application. No offence was therefore being committed at the relevant time.

17. The Applicants suggested that the Respondents should not be "excused" for their own failure not to have sought to licence the Property sooner, thereby obtaining an updated Database sooner. The Tribunal concluded that was rather irrelevant. Once they had determined to make an application, delay at the Council's end should not count against them. The Applicants were not prejudiced in any way; nothing prevented them from bringing their application for a rent repayment order sooner than they did.

18. In light of this finding, it was unnecessary for the Tribunal to consider or determine any further matters, such as whether the parties had entered into a tenancy or not, whether rent had been paid in full or not, or any other matters raised about the parties' respective conduct.

Judge M. Hunt