



FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : MAN/OOCY/HMC/2024/0001

Property : Flat 2, 2 Albert Road, Queensbury,
Bradford BD13 1PB

Applicant : Freyja Pitchers

Respondent : Andrew Dunne

Type of Application : Application for Rent Repayment Order by tenant
Sections 40,41,43 and 44 Housing and Planning Act 2016

Tribunal Members : Judge T N Jackson
A Ramshaw MRICS

Date and venue of
Hearing : 15 August 2025
Video hearing

Date of Decision : 29 August 2025

DECISION

Decision

The Tribunal is not satisfied beyond a reasonable doubt that the Respondent committed an offence under section 30(1) of the Housing Act 2004 and therefore makes no Rent Repayment Order.

Reasons for decision

Introduction

1. On 21 February 2024, the Applicant applied for a Rent Repayment Order stating that the Respondent had failed to comply with an Improvement Notice under section 30(1) of the Housing Act 2004. The Applicant sought a Rent Repayment Order in the amount of £3950.
2. Directions regarding case management matters were issued on 7 May 2025.

The Property

3. The Property is a one bedrooned ground floor flat and is one of 6 flats contained within a conversion of a former water pumping station.

Background

4. The Applicant was a tenant at the Property under a tenancy agreement dated 24 February 2023 between the Applicant and the Respondent for a term of 12 months from the same date at a rent of £395 per month.
5. In February 2023, the Applicant complained of issues with the boiler which was subsequently repaired on several occasions but which the Applicant says was not satisfactorily remedied nor replaced during the tenancy.
6. There was a water leak under the bath and also from a radiator in the bedroom. The leaks led to damage and dampness to the flat.
7. In May 2023, a Bradford Council, (the Council), officer visited the Property and a repair request was sent to the letting agent the same day.
8. In July 2023, the Applicant informed the Respondent 's letting agent that a curtain rail and radiator brackets had fallen out of the wall due to the softness of the walls. Following a change in letting agent, the Applicant informed the Respondent directly of the issues.
9. On 24 October 2023, contractors visited and fastened the radiator to the wall, trimmed the edges of 'the second door in' from the main entry door and repaired the soft close mechanism.
10. On 31 October 2023, a Council officer inspected the Property.
11. On 11 November 2023, the Applicant placed her hand on the stud wall in the bathroom and a part of the wall crumbled and broke, leaving a hole which showed the presence of mould.

12. In November 2023, the Applicant emailed the Respondent stating that she wished to terminate the tenancy early.
13. On 27 November 2023, by email, the Respondent responded to an email from the Applicant referring to concerns of disrepair and advised that he was happy to end the tenancy if she was not happy at the property. He asked her to contact him once she had left the flat and had it cleaned so they could arrange an inspection and collect the keys.
14. There is a dispute between the parties as to whether the Applicant left the Property on 28 November 2023 or 23 December 2023.
15. On 21 December 2023, the Council issued the Respondent with an Improvement Notice, ('the Notice'), dated the same date. Schedule 1 of the Notice set out two Category 1 Hazards namely Excess Cold and Personal Hygiene, Sanitation and Drainage and two Category 2 Hazards, namely Fire and Damp and Mould. Schedule 2 of the Notice set out the remedial works to be carried out and required all works to be completed within 28 days of a new tenancy commencing.
16. On 9 January 2024, the Respondent advised the Council that all works required by the Notice had been completed.
17. On 10 January 2024, the Council responded and asked for availability dates to carry out an inspection to confirm whether the matter could be closed.
18. The Respondent had no further contact with the Council and an inspection has not taken place.
19. On 15 August 2024, a new tenancy agreement commenced with a new tenant.

Inspection

20. An inspection was due to be carried out on the day of the hearing. However, after reviewing the papers, the Tribunal determined that an inspection was not required and the parties were so advised. The Tribunal noted that the alleged offence was some 18 months ago, remedial works had allegedly been completed in January 2024, the Appellant had included photos within her appeal bundle and the Property had been occupied by a new tenant from August 2024.

Hearing

21. A hearing took place via the CVP video platform. Both parties attended and were unrepresented.

The Law

22. Section 41 of the Housing and Planning Act 2016 ("the 2016 Act"), provides that a tenant may apply to the Tribunal for a Rent Repayment Order against a landlord who has committed an offence to which the 2016 Act applies.
23. The 2016 Act applies to an offence committed under section 30(1) Housing Act 2004, namely failure to comply with an Improvement Notice.

24. Section 43 provides that the Tribunal may make a Rent Repayment Order if satisfied, beyond a reasonable doubt, that the landlord has committed an offence to which the 2016 Act applies (whether or not the landlord has been convicted).

25. Section 44 of the 2016 Act provides for how the Rent Repayment Order is to be calculated. For an offence under section 30 of the Housing Act 2004, the period to which a Rent Repayment Order relates is a period, not exceeding 12 months, during which the landlord was committing the offence. The rent the landlord may be required to pay in respect of that period must not exceed the rent paid in respect of that period, less any relevant award of universal credit paid in respect of rent under the tenancy during that period.

26. Section 44(4) of the 2016 Act states that in determining the amount of a Rent Repayment Order, we should take account of the following factors:

- 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 that Chapter of the Act applies.

Submissions

The Applicant

27. The Applicant provided a written submission with exhibits and photographs. The Applicant submits that throughout the tenancy, the Property had a defective boiler, was damp and mouldy and had water leaks. The Property was in disrepair and the Respondent was in breach of his landlord obligations under the tenancy agreement. The damp and mould posed health and safety risks to the occupants in breach of legislation and the lack of remedial action led to respiratory issues for the Applicant and her partner. She contacted the Council in approximately May 2023 regarding the condition of the Property which ultimately led to the issue of the Notice dated 21 December 2023.

28. The Applicant says that she left the Property on 23 December 2023, after having paid her last rent on 28 November 2023.

The Respondent

29. The Respondent provided a written submission with exhibits. He submits that he arranged for boiler repairs to be carried out. He received no further contact from the Applicant regarding potential issues until he received a letter from the Council at the end of June 2023 following an inspection that they had carried out. He was notified of damp and mould and that a radiator had fallen off. He contacted his letting agent and an inspection was carried out. Condensation on the windows and black spot mould around the windows was noted. The Applicant was advised that this was caused by lack of ventilation and was advised to leave the windows open on vent to allow ventilation. It is alleged that the Applicant did not want to heat the Property due to energy costs.

30. The Respondent alleges that the Applicant was in breach of her covenants in the tenancy agreement.

31. The Applicant informed the Respondent that she wished to leave the tenancy early. The Respondent's records show that the Applicant paid her last rent on 24 October 2023 and vacated on 28 November 2023. The Property was redecorated and the boiler and carpets replaced. The Property was relet on 15 August 2024 and he had not received any concerns from the new tenant.

Deliberations

32. We considered the applications in four stages –

- a) Whether we were satisfied beyond a reasonable doubt that the Respondent had committed an offence under section 30(1) Housing Act 2004;
- b) Whether the Applicant was entitled to apply to the Tribunal for a Rent Repayment Order;
- c) Whether we should exercise our discretion to make a Rent Repayment Order;
- d) Determination of the amount of any Order.

Offences

33. Section 30 (1) of the Housing Act 2004 provides that:

'Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.'

34. Section 30(4) of the 2004 Act provides that it is a defence if the person had a reasonable excuse for failing to comply with the Notice.

35. Paragraph 3 of the Notice states:

'The operation of this Notice is suspended until reoccupation of the flat and you are required to inform the Council within 14 days of this event occurring.

The works must start no later than 21 days after the event specified above and must be completed within the time scales given in Schedule 2.'

36. There is a dispute between the parties as to the date the Property was vacated by the Applicant. The parties had not included evidence within their bundles which assisted determination of the point and their oral evidence conflicted. In the absence of satisfactory evidence on, what appears to us to be a simple point, we were unable to determine the conflict. However, we accept that the Property was vacated by 23 December 2023 at the latest.

37. In the absence of any evidence to the contrary, we accept the Respondent's oral evidence that a new tenancy commenced on 15 August 2024. The Notice therefore did not become operative until 15 August 2024 and remedial works had to be completed within 28 days of the start of the new tenancy. The application to the Tribunal in February 2024 was therefore premature as the Notice was not yet operative at that date.

38. We are therefore not satisfied, beyond a reasonable doubt, that the Respondent had committed an offence under section 30(1) of the Housing Act 2004. As such, we were not required to consider steps b) to d) referred to in paragraph 32 above.

Obiter

39. The Respondent's oral evidence was that he had not contacted the Council within 14 days of the new tenancy commencing as required by the Notice and that there had been no contact by the Council since 10 January 2024 or inspection to determine if the remedial works carried out on 9 January 2024 met the Notice's requirements.

40. Until the Council has determined that the remedial works have been carried out, by inspection or otherwise, the Notice is still in force and will remain so until revoked by the Council.

Costs

41. Neither party has made an application for costs and we make no such order.

Appeal

42. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

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Judge T N Jackson