



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

Case Reference : **MAN/30UH/HMF/2024/0030**

Property : **81 Lune Street, Lancaster LA1 2A**

Applicant : **Mr William Henderson**

Respondent : **Student Housing Lancaster Ltd**

Type of Application : **Housing and Planning Act 2016 –
Section 41(1)**

Tribunal : **Tribunal Judge L Brown,
Mr J Elliott.**

Date of Hearing : **9 September 2025**

Date of Decision : **13 October 2025**

DECISION

The Respondent is liable for payment of a rent repayment order to the Applicant in the sum of £849.87, within 28 days of the date upon which this Decision is sent to the parties.

REASONS

The Application

1. By application dated 28 April 2024 (the Application), the Applicant sought a Rent Repayment Order (RRO) pursuant to section 41(1) of the Housing and Planning Act 2016 (the 2016 Act) in relation to their occupation of the Property.

2. It was not disputed that the Application was brought within the statutory timeframe to do so.

3. The Tribunal considered it unnecessary in view of the matters in issue to conduct an inspection of the Property. There was no application for a hearing. The Tribunal was satisfied that it could make its determination at a remote hearing, which took place on 9 September 2025. The Tribunal was satisfied that all relevant issues could be determined in that remote hearing. We found no difficulty with the technology for the second hearing.

4. The Applicant attended the hearing, supported by his Father, Mr Simon Henderson. The Respondent was represented by Mr Matthew Wiggins, Director.

5. The Tribunal understood from the Application that the Property is a 3 storey, end-terrace, 5 bedroom house.

The Law

6. The relevant statutory provisions relating to Rent Repayment Orders are contained in sections 40, 41, 43 and 44 of the Housing and Planning Act 2016 (the “2016 Act”), extracts from which are set out in the Annex to this decision.

7. Section 40 of the 2016 Act identifies the relevant offences, including an offence under Section 95(1) of the Housing Act 2004 (the “2004 Act”) (control or management of unlicensed premises). Subsection 95(4) provides that in proceedings against a person for such an offence it is a defence that he had a reasonable excuse for having control or managing the house without the relevant licence.

8. Section 43 provides that the Tribunal may make a rent repayment order only if satisfied, beyond reasonable doubt, that a landlord has committed a relevant offence (whether or not the landlord has been convicted).

9. Section 44(4) lists considerations which the tribunal must 'in particular' take into account in determining the amount of any repayment - conduct of the landlord and tenant, financial circumstances of the landlord and whether the landlord has been convicted of an offence to which that chapter of the 2016 Act applied. The use of the words 'in particular' suggests that these are not the only considerations the tribunal is to take into account.

10. Relevant for these proceedings is “HMO” (a house in multiple occupation). Housing Act 2004 provides (section 61) that a HMO must be licensed, in the circumstances described in the legislation. Controlling or managing a HMO without a licence is an offence (section 72(1)).

Evidence and relevant findings

11. The basis for the Application was that the Applicant had rented the Property from the Respondent as residential accommodation for a term from 1 August 2023 to 31 July 2023. The Tribunal had before it a copy of a corresponding tenancy agreement (the “Agreement”). The Applicant was one of 5 named tenants.

12. Rent reserved under the Agreement as payable by one tenant was £5,760 for the term; agreed by the Respondent as referable for the Application.

13. It was not in dispute that at the relevant time for the Application the Property was a HMO, and there was no evidence before the Tribunal to the contrary. It further was not disputed that the Respondent controlled or managed the Property and did not hold a licence for it. The Tribunal found beyond reasonable doubt that a relevant offence under section 72(1) Housing Act 2004, relating to housing, occurred. Further, that the offence was committed in the period of 12 months ending with the date the application was made.

14. Section 44 of the 2016 Act permits a rent repayment order to be made for a period, not exceeding 12 months, during which the offence was being committed. The parties agreed that no relevant licence was in place from the date the Applicant took up occupation of the Property – 15 September 2023, whereupon a HMO licence would become necessary – until application for the licence was made on 11 December 2023. Therefore, the Tribunal found that the offence was committed during that period, comprising 87 days.

15. The Tribunal found that the Applicant, as a residential tenant, satisfied the legal tests to be able to apply for a rent repayment order. It was accepted by the Respondent that full payment of his rent had been made by the Applicant.

16. At the hearing, the parties agreed the sum for the relevant deduction for utility costs, which may not be the subject of a rent repayment order, and that the applicable daily rate of net rent payable by the Applicant was £3.57. Therefore, the applicable deduction would be £310.59, meaning the maximum sum which could be the subject of any order was £1,062.34.

17. The Respondent advised the Tribunal that it operates a large number of properties, many of which are HMOs. It has been in business for over 25 years. The omission to apply for the appropriate licence concerning the Property during the above period was due only to an administrative oversight. Mr Wiggins stated that the Property formerly had a HMO licence, application for the new licence had been made without delay from notification of the issue and there had been no other proceedings against the Respondent for housing-related matters.

18. The Applicant stated that the tenancy had proceeded smoothly, without concern about the accommodation.

19. The Tribunal found that the failure to licence was a technical breach, due to an administrative oversight, that the Respondent had operated a good tenancy of the Property for the Applicant and no evidence of harm arising from the failure to licence

was before us. In the circumstances, we exercised discretion and determined that while a rent repayment order should be made arising from the offence, the maximum amount for the period at issue (£1,062.34) should be reduced by 20%. Therefore, the net effect was a reduction of £212.47.

Decision

20. The Tribunal found that the Respondent is liable for payment of a rent repayment order to the Applicant, in the sum of £849.87, within 28 days of the date upon which this Decision is sent to the parties.

L Brown
Tribunal Judge

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 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).