



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

Case Reference	:	MAN/ooBY/HMF/2024/0046 MAN/ooBY/HMF/2024/0047
Property	:	35 Heathfield Road, Liverpool, L15 9EU
Applicants	:	(1) Dominika Madej (2) Karol Bianga
Respondent	:	ResiPlus Ltd
Type of Application	:	Application for a Rent Repayment Order by tenants Housing and Planning Act 2016 – Section 41(1)
Tribunal Members	:	Judge S. Westby (Chair) Mr H. Lewis FRICS
Date and venue of Hearing	:	24 November 2025 Remote hearing
Date of Decision	:	2 December 2025

DECISION

DECISION

- (1) The Tribunal makes rent repayment orders against the Respondent to each of the Applicants in the following sums, to be paid within 28 days:
Ms Madej: £1,550.25
Mr Bianga: £1,227.75
- (2) The Tribunal orders, pursuant to rule 13(2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, that the Respondent reimburse the Applicants the application and hearing fees in respect of these applications.

REASONS

The Application

1. By way of applications dated 17 and 18 September 2024, the First and Second Applicants, respectively, seek rent repayment orders pursuant to sections 43 and 44 of the Housing and Planning Act 2016 (“the Act”) for the period 21 October 2023 to 29 March 2024. Both applicants were tenants of the property known as 35 Heathfield Road, Liverpool, L15 9EY (“the Property”) during this period.
2. The Applicants allege that the Respondent has committed an offence contrary to section 72(1) of the Housing Act 2004 (“the 2004 Act”) of having control or management of an unlicensed House in Multiple Occupation (“HMO”). The offence is set out in the Housing and Planning Act 2016 (“the 2016 Act”), section 40(3), as one of the offences which, if committed, allows the Tribunal to make a rent repayment order under Part 2, Chapter 4 of the 2016 Act.

Procedural Background

3. The Applicants confirmed to the Tribunal, by way of email dated 8 August 2025, that they were content for their applications to be consolidated and heard together.
4. Directions were issued on 20 August 2025, and the Applicants have filed a joint bundle. A bundle has also been received from Magdalena Adameczek, a former director of the Respondent company, on behalf of the Respondent.
5. On 26 August 2025, notification of the hearing date was sent to both parties. A reminder of the hearing date was sent on 10 November 2025.
6. Prior to the hearing, on 21 November 2025, the Tribunal received an email from Ms Adameczek in which she confirmed that she was unable to attend the video hearing on behalf of the Respondent owing to her poor health. Ms Adameczek requested that the Tribunal proceed on the written evidence that had already been submitted. The email further

confirmed that the Respondent's bundle 'accurately reflects the Respondent's position in full, and presents all relevant facts required for a fair determination of the case'.

7. Rule 34 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the 2013 Rules") provides that if a party fails to attend a hearing the Tribunal may proceed with the hearing if it is satisfied that the party has been notified of the hearing and it considers that it is in the interests of justice to proceed with the hearing.
8. The Applicants both confirmed that they were happy to proceed with the hearing without the Respondent attending. In the circumstances, the Tribunal was satisfied that the Respondent was notified of the hearing and that it was in the interests of justice to proceed with the hearing in the Respondent's absence.

The Parties' Submissions

9. The Applicants' case is that they both entered into assured shorthold tenancy agreements with the Respondent commencing on 21 October 2023. The agreements allowed each of them to occupy a room in the Property and have the use of shared facilities, including bathrooms, a kitchen and a yard. Copies of the tenancy agreements were included in the Applicants' bundle. Both agreements were for an initial fixed term of one month. The rent varied according to the size of their rooms, with Ms Madej's rent being £530 per calendar month for room 5. Mr Bianga's rent was specified to be £564 per calendar month for room 3.
10. During the hearing, the Applicants confirmed that there were five bedrooms in the Property and, during their occupation of the Property, each of those bedrooms was occupied.
11. The Applicants allege that the Property was a HMO and that the Respondent was managing the Property without the required licence.
12. The Applicants' claim to have made the following payments in rent during their occupation of the Property from 21 October 2023 until they vacated the Property on 29 March 2024:
 - a. Ms Dominika Madej - £3,084.00.
 - b. Mr Karol Bianga - £2,611.94.
13. The Applicants complain that, during their tenancy of the Property, there were multiple safety hazards and that these were reported to the Local Authority who then served the owner of the Property with an improvement notice dated 18 March 2024 ("the Improvement Notice"). The Improvement Notice identified one category 1 hazard (relating to fire) and three category 2 hazards at the Property (relating to damp and mould growth, personal hygiene sanitation and drainage and falling between levels). It should be noted at this juncture that the owner of the Property is not the Respondent.

14. The Applicants also complain that the Respondent sent emails to them that they considered to be intimidating or a form of harassment. Copies of these emails are provided within the Applicants' bundle and are discussed later in this decision.
15. In response, Ms Adameczek, in the Respondent's statement of case, confirms that she is no longer a director of the Respondent but that she submits the statement on behalf of the Respondent.
16. The Respondent states that it rented the Property from the owner, Mr Hyams, through Mr Hyam's agent. A copy of the tenancy agreement, dated 13 September 2023, is enclosed within the bundle. The Respondent's statement of case confirms that it rented the Property in order to house contractors working for another director of the Respondent, who operated a refurbishment company. However, when some rooms within the Property became vacant, they were offered to private tenants, which included the Applicants.
17. Ms Adameczek confirms that, prior to entering into the tenancy with Mr Hyams, the Respondent checked the Liverpool County Council public register 'which showed an active HMO Selective Licence held by Mr Hyams'. Consequently, the Respondent claims it reasonably believed that the Property was correctly licensed and it relied upon Mr Hyams's licence and the Council records. The Respondent states that it acted in good faith, that any non-compliance was unintentional and was the result of the Respondent's misunderstanding of the licensing status, as opposed to any deliberate avoidance.
18. The Respondent claims that the Improvement Notice was managed and dealt with promptly by Mr Hyams.
19. The Respondent alleges that the Applicants were bad tenants who displayed anti-social behaviour, used electricity (which was a utility included within the rent) excessively and were obstructive.
20. Finally, Ms Adameczek claims that the Respondent has now ceased trading, has no active directors, assets or operations and is in the process of being struck off from Companies House.

The Issues

21. The issues that the Tribunal must determine are set out in the directions order of 20 August 2025 and are as follows:
 - a. Is the Tribunal satisfied beyond reasonable doubt that the landlord has committed the alleged offence?
 - b. Did the offence relate to housing that, at the time of the offence, was let to the tenants?
 - c. Was an offence committed by the landlord in the period of 12 months ending with the date the application was made?
 - d. What is the applicable 12-month period?

- e. What is the maximum amount that can be ordered under s.44(3) of the 2016 Act?
- f. What account must be taken (under s44(4) of the 2016 Act of:
 - i) The conduct of the landlord?
 - ii) The financial circumstances of the landlord?
 - iii) Whether the landlord has at any time been convicted of a relevant offence?
 - iv) The conduct of the tenants?
 - v) Any other factors?

The Determination

Is the Tribunal satisfied beyond reasonable doubt that the Respondent has committed the alleged offence?

- 22. In the Respondent's statement of case, the Respondent states that the Liverpool City Council public register showed 'an active HMO Selective Licence held by Mr Hyams'. In its bundle is a screenshot of this licence at the time the Respondent let the Property from Mr Hyams.
- 23. In fact, the screenshot shows that the Property had a Selective Licence which was issued on 5 October 2022, and which was due to expire on 4 October 2027. The specifics of the licence, also shown in the screenshot, confirm that the maximum number of people permitted to occupy the Property is four. In the opinion of the Tribunal, it is clear that the licence held for the Property was a Selective Licence, not a HMO licence.
- 24. It does not appear to be disputed by either party that the Property was a HMO at the relevant time and that it required a HMO licence. Indeed, the Respondent appears to acknowledge this in its bundle, but states that it did not knowingly operate an unlicensed HMO and it was Mr Hyams, the owner of the Property, who retained full responsibility for compliance with licensing requirements and safety obligations under the relevant legislation.
- 25. Furthermore, in the Respondent's bundle, there is an email from a Senior Enforcement Officer at Liverpool City Council to Ms Adamaczek, dated 7 February 2024, in which the Officer confirms that 'the Selective Licence has now been revoked as the property is [in] operation as a HMO and a HMO licence application must be submitted...'. Accordingly, the Tribunal determines that the Property was a HMO pursuant to s.254 of the 2004 Act.
- 26. However, the Respondent appears to dispute that it was responsible for managing the premises; it claims that the responsibility lay with Mr Hyams.
- 27. S.263(3) of the 2004 Act sets out the meaning of 'person managing':

(3) ‘In this Act ‘person managing’ means, in relation to the premises, the person who, being an owner of lessee of the premises-

(a) received (whether directly or through an agent or trustee) rents or other payments from-

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises’

28. There have also been several cases on the issue of identifying the landlord for the purposes of a rent repayment order. In the case of *Rakusen v Jepson [2023] UKSC 9*, the Supreme Court held that, following a straight-forward interpretation of s.40(2) of the 2016 Act, a rent repayment order cannot be made against a landlord other than the immediate landlord under the tenancy which generates the relevant rent.

29. Within the Applicants’ bundle are bank statements showing regular payments of rent from the Applicants to the Respondent. It is also clear from the Applicants’ tenancy agreements that the Respondent was the immediate landlord of the Applicants.

30. Accordingly, the Tribunal is satisfied beyond reasonable doubt that the Respondent committed the offence - the Respondent was managing an unlicensed HMO in breach of section 72(1) the 2004 Act. The Respondent is also the correct respondent in this matter, being the immediate landlord of the Applicants.

Did the offence relate to housing that, at the time of the offence, was let to the tenants?

31. The Property was granted a HMO licence on 29 February 2024. The Applicants were both tenants of the Property from 21 October 2023 to 29 March 2024.

32. The evidence before the Tribunal is that an offence of having control or management of an unlicensed HMO, contrary to section 72(1) of the 2004 Act was committed for the period 21 October 2023, when the Applicants took a tenancy of their respective rooms, until 28 February 2024, the day before the Property was granted a HMO licence.

33. Accordingly. The offence does relate to housing, that at the time of the offence, was let to the Applicants.

Was an offence committed by the landlord in the period of 12 months ending with the date the application was made?

34. Ms Madej's application is dated 17 September 2024 and Mr Bianga's is dated 18 September 2024.

35. As set out above the offence was committed for the period 21 October 2023 until 28 February 2024. The offence was, therefore, committed by the Respondent within the period of 12 months ending with the date upon which the applications were made. Both applications have, therefore, been made in time.

What is the applicable 12-month period?

36. As Ms Madej's application is dated 17 September 2024, the applicable 12-month period in respect of her application is 18 September 2023 to 17 September 2024.

37. As Mr Bianga's application is dated 18 September 2024, the applicable 12-month period in respect of his application is 19 September 2023 to 18 September 2024.

What is the maximum amount that can be ordered under s.44(3) of the 2016 Act?

38. In considering the amount, if any, which the Tribunal should order the Respondent to pay, the Tribunal had regard to the approach recommended by Upper Tribunal Judge Cooke in the decision of *Acheampong v Roman and others [2022] UKUT 239 (LC)* at paragraph 20. The first step is to ascertain the whole of the rent for the relevant period. The relevant period is the period, not exceeding 12 months, during which the landlord was committing the offence. The evidence before the Tribunal is that an offence was committed during the period 21 October 2023 to 28 February 2024 ("the Relevant Period").

39. Section 44(2) of the 2016 Act confirms that if a rent repayment order is made on the ground that the landlord has committed an offence under s.72(1) of the 2004 Act, the amount must relate to rent paid "during" the Relevant Period and to rent paid "in respect" of that period.

40. Both Ms Madej and Mr Bianga provided copy bank statements in their bundle. The bank statements show that during the Relevant Period Ms Madej paid the following sums:

	Amount Paid	Date Paid
	£844	21 October 2023

	£530	22 November 2023
	£530	22 December 2023
	£530	22 January 2024
	£265	22 February 2024
Total Paid	£2,699	

41. There was a further payment of £265 on 29 February 2024; however, as this was paid outside the Relevant Period, it cannot be included in the Tribunal's calculations. In respect of the initial payment of £844, Ms Madej stated that this included an initial payment to reserve the room which would then be deducted from future payments of rent. It was not clear to the Tribunal when the additional £314 was deducted from the rent paid but it is clear to the Tribunal that this £314 was not paid "in respect of rent" during the Relevant Period as the full calendar rent had been paid for each month (when you include the further payment of £265 on 29 February). The Tribunal, therefore, determines that Ms Madej paid rent of £2,385.00 (being £2,699 less £314) during, and in respect of, the Relevant Period.

42. There was a duplication in Mr Bianga's bank statements; there were two statements which showed that the sum of £280 had been paid to the Respondent on 4 March 2024. During the hearing, Mr Bianga confirmed that this was a duplication and that he had only made one payment of £280 on 4 March 2024. The duplicated statement had been included in error in place of a document which should have shown that he had paid the Respondent £280 on 21 February 2024. The Tribunal accepted this explanation and the evidence before the Tribunal was that, during his tenancy, Mr Bianga had paid the following sums during the Relevant Period:

	Amount Paid	Date Paid
	£564	21 November 2023
	£564	22 December 2023
	£300	22 January 2024
	£247	23 January 2024
	£280	21 February 2024
Total:	£1,955	

43. The Tribunal, therefore, determines that Mr Bianga paid rent of £1,955 during, and in respect of, the Relevant Period.

Utilities

44. The rent paid by the Applicants included the cost of utilities. The only evidence as to the cost of utilities was provided by the Respondent. The Respondent included in its bundle confirmation of the gas and electricity bills for the period 28 August 2024 to 27 August 2025 and claimed that this evidenced 'a substantial rise from Autumn 2024 through Winter 2024/25, consistent with excessive use of appliances and electric heaters'. However, the Applicants were not occupying the Property during this period and had vacated the Property on 29 March 2024.

45. The Tribunal considers that an increase in gas and electricity costs from Autumn through Winter is very commonplace in all households. People will naturally use more electricity and central heating in autumn and winter due to the colder weather and the fact that there is less daylight.

46. Absent any other evidence, the Tribunal will rely upon the gas and electricity figures for the Property from 28 September 2024 to 27 March 2025 (180 days) to provide a likely billing figure for the gas and electricity for the Relevant Period (131 days). The total payable in respect of gas and electricity for the period 28 September 2024 to 27 March 2025 is £2,187.99, which is equivalent to £12.15 per day. For the Relevant Period, this is £1,591.65 and divided by 5 tenants is £318.33, say £318.00 per person. We then need to deduct this from the rent paid during and in respect of the Relevant Period:

	<u>Ms Madej</u>	<u>Mr Bianga</u>
Rent paid (for Relevant Period)	£2,385.00	£1,955
Less Utilities	(£318.00)	(£318.00)
Total	£2,067.00	£1,637.00

47. Thus, the maximum amount that can be ordered is £2,067.00 in respect of Ms Madej and £1,637.00 in respect of Mr Bianga.

Seriousness of the offence

48. As required under the approach recommended by the case of *Acheampong*, the Tribunal then considered the seriousness of the offence both as compared to other types of offence and then as compared other examples of offences of the same type. From that it determined what proportion of the rent was a fair reflection of the seriousness of the offence.

49. The offence in question is one contrary to s.72(1) of the 2004 Act. This is, when compared with offences such as violence for securing entry, a more minor offence. The Tribunal also concluded that this was not a serious offence of its kind. It considered the impact on the tenants of the absence of a HMO licence and considered that the impact was minor. For these reasons, the Tribunal determines that a reduction of 25% is justified.

Section 44(4) of the 2016 Act

50. Finally, the Tribunal needs to consider whether any deduction from, or addition to, the award should be made in the light of the other factors set out in section 44(4) of the 2016 Act. These are matters the tribunal must 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 identified in the table at s.45 of the 2016 Act.

51. There were allegations of poor conduct from both sides. The Applicants allege that the Respondent sent two emails which they consider amounts to intimidation and/or harassment. The first being an email, dated 3 December 2023, which appears to have been sent to 3 tenants, and which refers to electricity usage increasing excessively and that, if such usage continued, the tenants would be charged an additional £50 per month towards the cost of electricity. The email also confirms that a smart meter will be installed at the Property the following week.

52. Whilst the tenants may not have liked receiving this email, the Tribunal does not consider the email to be intimidating or a form of harassment.

53. The second email is an email to Ms Madej from the Respondent, dated 4 December 2023, in which the Respondent purports to terminate Ms Madej's tenancy on 20 December 2023, giving 16 days' notice and alleging a breach of the tenancy agreement for bringing in her own electrical equipment.

54. This email is more serious in nature. It is concerning that the Respondent attempted to terminate Ms Madej's tenancy in this way, rather than serving formal notice, as is required by the Housing Act 1988. Although we note that the email did not result in Ms Madej vacating the Property on the date specified in the email, the Respondent should have been aware, or made itself aware, of the legal requirements of serving formal notice on the tenant.

55. The Tribunal also notes that the Respondent let the rooms in the Property to five different people, causing the Property to become an unlicensed HMO. This is contrary to paragraph 4.4 of the Respondent's

own tenancy agreement with its landlord, Mr Hyams, which states that the Respondent is 'not to use the Property in any manner which might lead to it becoming a [HMO]...without the Landlord's written consent'. It is also clear that the Respondent did not review the specifics of the Selective Licence which explicitly states that the maximum number of people permitted to occupy the Property is four.

56. In mitigation, there is no evidence that the Respondent has any previous convictions, it appears that the Property was the only premises let by the Respondent and a licence was in place for the Property, albeit not the correct licence.
57. The Applicants also refer to the Improvement Notice as evidence of the Respondents' poor conduct. However, the Improvement Notice was issued on 18 March 2024, after the HMO licence for the Property had been granted and, therefore, once the offence had been remedied. During the hearing, the Applicants confirmed that the main reason for applying for a rent repayment order was due to the Property lacking a HMO licence.
58. Accordingly, the Tribunal determines not to make any uplift in the award on the basis of the Respondent's conduct.
59. With regard to the Applicants' conduct, the Respondent alleges that the Applicants repeatedly caused disturbances at the Property, were obstructive and engaged in anti-social behaviour. Included in the bundle is an email from Ms Adameczek to Liverpool City Council complaining of Ms Madej's behaviour and seeking advice from the Council in this regard. Also included in the bundle are 'exhibits' in which the Respondent appears to have summarised emails of complaint received from another tenant of the Property about the Applicants and also screenshots of text messages between Ms Adameczek and another tenant at the Property. The Applicants deny all of the allegations made.
60. The Tribunal does not accept this evidence from the Respondent. The email to the Council is hearsay evidence based upon a third party's comments and the Tribunal does not have copies of the emails which have been 'summarised' by the Respondent. In respect of the text messages, these appear to the Tribunal to be messages of complaint by a tenant who clearly does not get on with the Applicants and, absent proper witness evidence, the Tribunal does not accept that there is firm evidence before it of poor conduct on behalf of the Applicants.
61. The Respondent claims, in its statement of case, that the Respondent has now ceased trading and has no active directors, assets or operations and is in the process of being struck off from Companies House. This was denied by the Applicants at the hearing who stated that the Respondent was still showing as being 'active' on Companies House. However, there

is no evidence before the Tribunal in respect of this issue and so the Tribunal sees no reason to alter its determination of the award further.

62. There is no evidence before the Tribunal that the landlord has at any time been convicted of an offence identified in the table at s.45 of the 2016 Act.

63. The Tribunal therefore makes a rent repayment order of 75% of the maximum rent repayment order. In the case of Ms Madej this is £1,550.25 and for Mr Bianga it is £1,227.75.

64. In light of the above determinations, the Tribunal also orders the Respondent to reimburse the Applicants' application fees and hearing fees.

Signed: S. Westby
Judge of the First-tier Tribunal
Date: 2 December 2025

Rights of appeal

By rule 32(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 (Land 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 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).