FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/30UH/HMF/2024/0602**
Property	**:**	**15 Dumbarton Road, Lancaster LA1 3BX**
Applicant	**:**	**Callum Levitt, Benjamin Voss, Harvey Newton, Euan Colla, Cem Guler and Tobias Stephenson**
Representative	**:**	**Mr Graeme Voss**
Respondent	**:**	**Mr Carlvin White (in absence)**
Type of Application	**:**	**Application for Rent Repayment Order Housing and Planning Act 2016 – Section 41(1)**
Tribunal Members	**:**	**Judge J. Hadley Ms J Jacobs MRICS**
Date and venue of Hearing	**:**	**2 December 2025 Video hearing**
Date of Decision	**:**	**12 December 2025**

DECISION

DECISION

A. Carlvin White is ordered to repay to one of the applicant tenants, Euan Colla, rent in the sum of £481.53 in respect of the period 5 October 2024 to 30 October 2024 such sum to be paid within 28 days of the date of service of this decision.

B. In addition, Mr White must reimburse Mr Benjamin Voss for the tribunal application fee of £110 and the hearing fee of £227 which have been incurred in these proceedings. The total sum of £337 to be paid within 28 days of the date of service of this decision.

REASONS

Introduction

1. On 4 November 2024, the Applicants submitted to the Tribunal a joint application under section 41(1) of the Housing and Planning Act 2016 ("the 2016 Act") for a rent repayment order. The names of the Applicants are shown above. The Applicants were represented in making the application and at the hearing by Mr Graeme Voss, who is the father of one of the applicants, Mr Benjamin Voss.

2. All six Applicants seek repayment of rent which they have paid to the Respondent, Carlvin White of 8 Albert Road, Lancaster LA1 2AE, in respect of their occupation of the property, 15 Dumbarton Street, Lancaster LA1 3BX ("the Property"). The Tribunal must determine whether it has jurisdiction to make a rent repayment order in each case and, if so, the amount which Mr White must repay to each Applicant.

3. On 4 September 2025, the Tribunal issued Directions ("the Directions") to the parties in respect of the application stating that the matter would be dealt with by way of a video hearing and setting out what each party needed to do in advance of the hearing and by what dates. No bundle or representations (or communications of any kind) were received from the Respondent in response. Therefore, there was no evidence from the Respondent for the Tribunal to consider.

4. The Respondent failed to attend the video hearing. The Tribunal considered whether it could proceed with the hearing in the Respondent's absence pursuant to rule 34 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules"). The Tribunal had sent all communications to the Respondent, including the Directions and notice of the hearing date, to the email address info@a1living.co.uk and not by post to his last known postal address. The case officer had also sent a further email communication to the

Respondent at a second email address, info@a1livingsolutions.co.uk. The email address info@a1living.co.uk was the email address for the Respondent provided by the Applicants in the application form, and was the email address provided by the Respondent under the heading "Landlord's contact details" in the tenancy agreement. Furthermore, it was evident from Companies House, which is publicly available information, that the Respondent was a Director of the company A1 Living Ltd (and in fact the Property was the registered office address of that company). The Tribunal considered that this demonstrated that the Respondent is connected to the company A1 Living Ltd (and is, in effect, one and the same) such that he would have received the emails sent to info@a1living.co.uk. It appeared to the Tribunal that Mr White had chosen not to engage in these proceedings. Therefore, the Tribunal was satisfied, pursuant to Rule 34, that it could and should proceed with the hearing in the Respondent's absence on the basis that either the Respondent had been notified of the hearing or that reasonable steps had been taken to notify the Respondent of the hearing, and that it was in the interests of justice to proceed with the hearing without further delay.

5. The Tribunal did not inspect the Property, but we understand it to comprise of a three-storey house with six bedrooms, two bathrooms, and a shared kitchen and living room (albeit the Applicants' position is that some of those facilities were lacking or not up to standard when the Applicants occupied the Property).

Law

Rent repayment orders

6. A rent repayment order is an order of the Tribunal requiring the landlord under a tenancy of housing in England to repay an amount of rent paid by a tenant. Such an order may only be made where the landlord has committed one of the offences specified in section 40(3) of the 2016 Act. A list of those offences was included in the Directions. The list includes the offence (under section 72(1) of the Housing Act 2004 ("the 2004 Act")) of controlling or managing an unlicensed house in multiple occupation ("HMO"). The offence must have been committed by the landlord in relation to housing in England let by him.

7. Where the offence in question was committed on or after 6 April 2018, the relevant law concerning rent repayment orders is to be found in sections 40 – 52 of the 2016 Act. Section 41(2) provides that 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.

8. Section 43 of the 2016 Act provides that, if a tenant makes such an application, the Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that the landlord has committed one of the offences specified in section 40(3) (whether or not the landlord has been convicted).

9. Where the Tribunal decides to make a rent repayment order in favour of a tenant, it must go on to determine the amount of that order in accordance with section 44 of the 2016 Act. If the order is made on the ground that the landlord has committed the offence of controlling or managing an unlicensed HMO, the amount must relate to rent paid during a period, not exceeding 12 months, during which the landlord was committing that offence (section 44(2)). However, by virtue of section 44(3), the amount that the landlord may be required to repay must not exceed:

    a. the rent paid in respect of the period in question, less
    b. any relevant award of universal credit or housing benefit paid (to any person) in respect of rent under the tenancy during that period.

10. In certain circumstances (which do not apply in this case) the amount of the rent repayment order must be the maximum amount found by applying the above principles. The Tribunal otherwise has a discretion as to the amount of the order. However, section 44(4) requires that the Tribunal must take account of the following factors when exercising that discretion:
    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 any of the specified offences.

<u>HMOs</u>

11. Section 254 of the Housing Act 2004 ("the 2004 Act") sets out the meaning of "house in multiple occupation". Section 254 (1) states that a building or a part of a building is a "house in multiple occupation" in five different instances which includes where it meets the conditions in s 254 (2) ("the standard test"). A building or part of a building meets the standard test if:

    a. it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
    b. the living accommodation is occupied by persons who do not form a single household (see section 258);
    c. the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
    d. their occupation of the living accommodation constitutes the only use of that accommodation;

e. rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
f. two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

12. Not all HMOs have to be licensed. Section 55 (2) (a) of the 2004 Act specifies that mandatory HMO licensing applies to those HMOs which fall within "any prescribed description of HMO" (unless the HMO has a temporary exemption notice or is subject to an interim or final management order). The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 ("the 2018 Prescribed Description Order) effective from 1st October 2018 sets out those HMOs to which mandatory licensing applies.

13. Regulation 4 of the 2018 Prescribed Description Order provides that an HMO is of the prescribed description for the purposes of section 55(2)(a) if it:

a. is occupied by five or more persons;
b. is occupied by persons living in two or more separate households; and
c. meets either:
    i. the standard test – section 254(2) of the 2004 Act;
    ii. the self-contained flat test under section 254(3) of the 2004 Act but is not a purpose built flat situated in a block comprising three or more self-contained flats; or
    iii. the converted building test – section 254(4) of the 2004 Act.

14. Under section 56 of the 2004 Act, a local housing authority may designate that their district or an area in their district as subject to additional licensing in relation to a description of HMOs.

Facts

15. The Applicants were all students at Lancaster University. The Applicants looked for a property to rent earlier in 2024 and, when they found the Property, it was being renovated but, the Applicants say, the Respondent told them it would be ready for them to move into ahead of the next academic year. Each of them signed the single tenancy agreement in June 2024. The tenancy agreement commenced on 26 August 2024 and was for a 52-week term. The landlord of the Property is specified on the front page of the tenancy agreement as being the Respondent, Carlvin White, albeit there is also a reference elsewhere in the agreement and accompanying documents to the landlord and letting agent as being A1 Living Ltd.

16. The total rent payable is stated in the tenancy agreement as £36,140. However, prior to entering into the tenancy agreement, the Applicants

say that some reductions were agreed. Each tenant assumed responsibility for paying a share of the rent. Their respective shares are set out in the table below. The Applicants say that the differing amounts are as a result of (1) Mr Levitt and Mr Voss having agreed a discount with the Respondent (as a result of both paying the full rent in advance) and (2) Mr Levitt and Mr Guler having been allocated a lower rental payment on account of smaller bedroom sizes. This gives a total rent payable (once reductions are factored in) of £35,800.

Tenant	**Rental share**
Callum Levitt	£4,380
Benjamin Voss	£6,460
Harvey Newton	£6,760
Euan Colla	£6,760
Cem Guler	£4,680
Tobias Stephenson	£6,760
Total	**£35,800**

17. The tenancy agreement provided for the total rent to be paid in four instalments as set out in the table below, or, alternatively, for the payments to be made in full in advance. The four instalments did not take account of the deductions set out above.

Amount payable by commencement of the Tenancy	£8,000
Amount payable by 6th October 2024	£10,000
Amount payable by 12th January 2025	£11,000
Final amount payable by 19 April 2025	£7,140

18. Having been offered a reduction in rent for paying it in full in advance, two of the tenants, Mr Levitt and Mr Voss, (with the assistance of their parents) paid their share of the rent in full on 29 August 2024 and 31 August 2024, respectively. Mr Levitt also paid a deposit of £150. The other four tenants paid smaller amounts of rent at the end of August 2024, as set out in the table below. As will become apparent, only one tenant made a further payment of rent after the end of August 2024, which was Euan Colla, who paid £3,700 on 7 October 2024. All payments of rent were paid to the Respondent via his business account, Piccadilly Management Services, as requested by the Respondent, all evidenced by screenshots of bank transfers and text message exchanges contained in the Applicants' bundle of evidence.

Tenant	**Amount paid**	**Date paid**
Callum Levitt	£4380	29/08/2024
Callum Levitt	£150 (deposit)	29/08/2024
Benjamin Voss	£6,460	31/08/2024
Harvey Newton	£800	28/08/2024
Euan Colla	£800	30/08/2024
Euan Colla	£3,700	07/10/2024

Cem Guler	£600	29/08/2024
Tobias Stephenson	£800	29/08/2024
Total	**£17,690**	

19. As is common for student houses, the tenancy agreement commenced before the Applicants moved into the Property. The Applicants say that, when they came to move into the Property, unfortunately, there were significant problems with its condition, and it was not suitable for living in. The Applicants have provided the Tribunal with witness evidence and photographic evidence showing incomplete renovation work at the Property. Graeme Voss described the Property as "a building site" and the photographs contained in the Applicant's bundle seem to substantiate that description.

20. As the Applicants were unable to find alternative accommodation, they moved into the Property. However, it was only for a brief period in the end. Whilst the Applicants and their parents tried to find a resolution with the Respondent, the necessary remedial work was not forthcoming and the Applicants eventually all found other accommodation to move into.

21. The Applicants confirmed during the hearing that, whilst four of them moved into the Property on 21 and 22 September 2024, the last two did not arrive until closer to the start of the university term on 6 October 2024. The Applicants confirmed at the hearing that the last two tenants must have arrived at least the day before the start of term, so on 5 October 2024.

22. The Applicants also confirmed during the hearing that three of the Applicants left the Property on 30 October 2024, and the remaining three moved out between 31 October 2024 and 3 November 2024.

23. As a result of the ongoing issues with the Property, the Applicants did not make further payments of rent to the Respondent whilst they were occupying the Property save for Mr Colla. Mr Colla's mother, Ms Anderson, told the Tribunal that she was under pressure from Mr Colla and the Respondent to pay more rent and she decided to pay a proportion of Mr Colla's rent on his behalf, in the hope that it would enable the progression of the work. This payment was in the sum of £3,700 and was made on 6 October 2024 as set out in the table above.

24. During their occupation of the Property, Mr Benjamin Voss contacted the local authority to report on the condition of the Property. Mr Benjamin Voss told the Tribunal that he spoke to Mr Gary Bullen at Lancaster City Council who later inspected the Property and informed Mr Benjamin Voss that the Property did not have an HMO licence. This was confirmed in an email from Mr Bullen to Mr Voss dated 24 October 2024 in which Mr Bullen stated "*I can confirm that 15 Dumbarton Road Lancaster does not currently have a HMO licence in place not does it have any pending application with our admin area".* Benjamin Voss also stated, in his witness evidence, that Mr Bullen had said, at the

inspection, that "*one of the "bedrooms" in the Property did not meet the size specifications required… that many parts of the Property were not acceptable and the house was not fit for letting out as accommodation*". Mr Graeme Voss recalled chasing up Lancaster City Council when the Applicants were putting together their bundle, at which time the Council confirmed to him that it was still the case that no application for a licence had been made by the Respondent, although the Council did not indicate whether it had taken any enforcement action against the Respondent. It was not known whether any such enforcement action had been taken.

25. Graeme Voss stated that the Applicants had not received any of the information which they should have received from Mr White, as landlord, at the commencement of the tenancy; no information about the registration of the deposit in a deposit scheme, no How to Rent booklet, no electricity and gas safety certificates, no EPC and no inventory.

Decision

Has an offence been committed?

26. To make a rent repayment order, the Tribunal must first be satisfied beyond reasonable doubt that the alleged offence has been committed. Beyond reasonable doubt is the criminal standard of proof, which is a higher standard of proof than the civil standard of the balance of probabilities. In this case, the Tribunal must be satisfied, beyond reasonable doubt, that the Respondent was controlling or managing an unlicensed house in multiple occupation ("HMO").

27. The Tribunal is satisfied that the Property meets the standard test for an HMO set out in s 254 (2) of the Housing Act 2004 on the basis that:
    a) The Property is a shared house; a single unit of living accommodation not consisting of a self-contained flat/s;
    b) The Applicants are unrelated individuals (so not a single household);
    c) As students at university, the Applicants are to be treated as occupying the Property as their only or main residence pursuant to s 259 of the Housing Act 2004;
    d) There was no other use of the living accommodation;
    e) Rent was payable;
    f) The Applicants shared amenities of two bathrooms, and a shared kitchen and living room.

28. Furthermore, during the period between 5 October 2024 and 30 October 2024, the Property was occupied by five or more persons, each living in separate households. Therefore, during that period, the Property would have been subject to mandatory licensing requirements pursuant to s 55 (2) (a) of the 2004 Act. The Tribunal notes that occupation is the crucial factor here; only when five or more of the Applicants were occupying the Property did the mandatory licensing regime apply.

29. The Applicants have not provided any evidence that the area in which the Property is situated was designated by the local authority as subject to additional licensing (i.e. requiring a licence for an HMO with three or more occupiers in two or more separate households) and there is no indication that that was the case in this instance. Therefore, the Tribunal does not consider that an offence could have been committed during any time when the Property was occupied by less than five persons.

30. The evidence which the Tribunal has heard orally from Mr Benjamin Voss in relation to his conversation with Mr Gary Bullen of Lancaster City Council and also the email dated 24 October 2024, indicates that the local authority considered that the Property was a HMO which should have been licensed at that time. Furthermore, that evidence demonstrates that no licence application had been submitted by the Respondent as at 24 October 2024 and, again, at the stage when the Applicants were preparing their bundle in 2025. The Tribunal accepts this as evidence that there was no mandatory licence in place between 5 October 2024 and 30 October 2024 and that no application for a licence had been made by the Respondent at that time.

31. Whilst the Applicants have not produced evidence from the Land Registry that the Respondent is the owner of the Property, the Respondent is clearly stated to be the landlord in the tenancy agreement and the Applicants paid their rent to the Respondent's business account upon his request. Furthermore, the Respondent is a Director of A1 Living Ltd, which is referred to as the managing agent in the tenancy agreement, and appears to be one and the same as the Respondent. In any event, the crucial factor here is that the Respondent was receiving the rent and, therefore, the Tribunal is satisfied that the Respondent was a person having control of or managing the HMO which was required to be licensed but which was not so licensed between 5 October 2024 and 30 October 2024.

32. The Tribunal has considered whether facts could give rise to a reasonable excuse defence for the Respondent. However, given that the Respondent has not engaged in the proceedings, no evidence has been provided to demonstrate a reasonable excuse, and the Tribunal is not aware of any circumstances which would suggest to it that such a defence exists.

33. Considering the above, the Tribunal is satisfied beyond reasonable doubt that during the period between 5 October 2024 and 30 October 2024 ("the Offence Period") the Respondent committed the offence of controlling or managing an unlicensed HMO.

34. Given that the Applicants applied for a rent repayment order within 12 months of the end of the Offence Period, the Tribunal has the jurisdiction to make a rent repayment order.

Whether a rent repayment order should be made

35. We are satisfied that it is appropriate to make a rent repayment order on the grounds that the Respondent has committed an HMO licensing offence. In coming to this decision, we are mindful of the fact that the objectives of the statutory provisions concerning rent repayment orders are (i) to enable a penalty in the form of a civil sanction to be imposed in addition to any penalty payable for the criminal offence of operating an unlicensed HMO; (ii) to help prevent a landlord from profiting from renting properties illegally; and (iii) to resolve the problems arising from the withholding of rent by tenants.

Amount of the order

36. On a straightforward reading of section 43 (2) of the 2016 Act the amount that the Respondent could be ordered to repay has to relate to rent paid "*during*" the Offence Period and to rent paid "*in respect of*" that period.

37. The difficulty in this case is that the Applicants made all the rent payments (save for one) in advance of going into occupation of the Property and, therefore, before the Offence Period. This is not an uncommon scenario for this sort of student accommodation and a case with similar facts was considered by the Upper Tribunal recently in June 2025.

38. In *Pearton v Betterton Duplex Limited [2025] UKUT 175 (LC)*, the Appellant had paid rent in advance before moving into an unlicensed HMO and made an application to the FTT for a rent repayment order. The Upper Tribunal upheld the decision of the FTT that it could not order repayment of any rent (such that the appeal failed) on the basis that the only payment of rent made by the tenants, whilst made *in respect of* the period when the offence was being committed, was not made *during* that period and that the wording of the statute is clear such that to widen the possibility of a rent repayment order would be an impermissible mis-reading of the statute. This followed the reasoning of the earlier decision of the Court of Appeal in *Kowalek v Hossanein Ltd [2021] UKUT 143 (LC)* which found that rent paid in arrears, after the landlord had ceased to commit the relevant housing offence, but in respect of the period of the offence, could not be subject to a rent repayment order.

39. The Tribunal is bound by the decision in *Pearson* (and the earlier decision of *Kowalek*). Save for the payment made on 7 October 2024, all the other rent payments were made before the Offence Period and, therefore, were not paid *during* the period in which the offence was committed as required by section 43(2). Therefore, those earlier rent payments cannot be the subject of a rent repayment order.

40. In relation to the payment of £3,700 made by (or on behalf of) Mr Colla on 7 October 2024, that was made during the Offence Period and so that can in principle be the subject of a rent repayment order.

41. However, in addition to that payment being made during the Offence Period, it must also *relate to* the Offence Period, in order to be the subject of a rent repayment order. The £3,700 represented a sizable proportion of Mr Colla's total rental share for the whole of the tenancy. Therefore, it cannot all be deemed to relate to the Offence Period. In order to calculate the proportion of that payment which related to the Offence Period, we consider that it is reasonable to calculate a daily rent of £18.52 based upon Mr Colla's annual rental contribution of £6,760, and then to multiply that by 26 being the number of days which make up the Offence Period. That gives a total of £481.53. The Tribunal finds that that is the maximum amount which can be awarded here.

42. None of the Applicants were in receipt of universal credit or housing benefit and so no deduction needs to be made in that respect.

43. Having determined the maximum amount, the Tribunal must consider a number of other factors before determining the actual amount to make the subject of a rent repayment order. Those factors are set out in s 44 of the 2016 Act and were expanded upon in the case of *Acheampong v Roman [2022] UKUT 239*. The Tribunal has considered those factors as set out in that case below:

    a. The tenancy agreement specifies that utilities were contributed towards by the Applicants in addition to and separately from the rent and so no deduction is made in respect of utilities paid for and received by the Applicants.
    b. The Tribunal considers that the offence is a relatively serious one. Whilst the Offence Period was short, that is only because the Applicants vacated the Property and found somewhere else to live. The evidence from the Applicants as to the condition of the Property and also their communications with the Council including in relation to the size of one of the bedrooms (as well as the very fact that the Applicants moved out of the Property) suggest that the Property was unsuitable for letting both in terms of its composition and condition. Given the very low level of the amount of rent which is the maximum amount which can be awarded in this case, we consider that it cannot be said that it is too high to be a fair reflection of the seriousness of the offence (in reality, it is more likely too low to be a fair reflection).
    c. The Tribunal has not received any evidence from the Respondent regarding the conduct of the Applicants. However, the Tribunal has not heard anything which suggests that there can be any criticism of the Applicants' conduct.
    d. In contrast, from what the Tribunal has heard from the Applicants, the conduct of the Respondent left a lot to be desired. The Applicants' evidence is that the Respondent did not comply with his general obligations as a landlord in terms of providing

information, as landlord, at the commencement of the tenancy; no information about the registration of the deposit in a deposit scheme, no How to Rent booklet, no electricity and gas safety certificates, no EPC and no inventory. Furthermore, there is evidence that the Property was in an unsuitable condition, and the Applicants say that the Respondent did not keep to his word in terms of the way the issues with the Property were to be resolved.

e. The Tribunal has not received any evidence from the Respondent as to his financial circumstances;
f. The Tribunal is not aware of the Respondent having any relevant convictions.

44. Bearing in mind all of the above and given that the Tribunal is already limited significantly in terms of the amount of rent which it can order to be repaid, given the apparent significant failings in terms of the Respondent's conduct and lack of any mitigating factors, and given that the Applicants (including Mr Colla) are going to be left significantly out of pocket, the Tribunal does not consider that there is any justification for reducing the amount of the rent repayment order.

45. Therefore, the Tribunal is satisfied that it should order Mr White to repay rent to Mr Colla in the sum of £481.53, that being the maximum amount that it can award to Mr Colla in the circumstances.

Conclusion

46. Notwithstanding that the Tribunal is satisfied beyond reasonable doubt that the Respondent committed the offence of controlling or managing an unlicensed HMO, the amount of repayment order which can be made (and to whom) is significantly limited for the reasons set out above.

47. The Tribunal has sympathy with the Applicants and their parents, for whom dealings with the Respondent in relation to the Property was no doubt a difficult and stressful experience.

48. The Applicants cannot be criticised for seeking repayment of their rent in full since it is understandable that they believed that full remedy might be available through this jurisdiction. Whilst the Tribunal cannot provide legal advice and has not made findings of fact in relation to issues which are not relevant to the determination of the point in hand, the Applicants may be able to claim their remaining rent in the County Court.

Reimbursement of tribunal application fees

49. The Tribunal is entitled under rule 13 (2) to make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party. Under rule 13 (3) the Tribunal may make such an order on its own initiative.

50. Mr Graeme Voss, on behalf of the Applicants, has incurred a tribunal application fee of £110 and a hearing fee of £227 (totalling £337) in connection with these proceedings. The joint application has been successful in that a rent repayment order has been made for the maximum amount possible in law. These proceedings became necessary due to the fault of the Respondent, and the Tribunal has not found any basis for laying any criticism on the Applicants who will remain significantly out of pocket. Therefore, the Tribunal considers it is appropriate for the Respondent to reimburse the fees in full. Given that Mr Graeme Voss is not a party to the proceedings, but he is the father of one of the Applicants, Mr Benjamin Voss, the Tribunal considers that it is reasonable and practical in the circumstances to make an order that Mr White should repay the fees to Mr Benjamin Voss, on the basis he is effectively one and the same as Mr Graeme Voss in relation to the payment of the fees.

Signed: J. Hadley
Judge of the First-tier Tribunal
Date: 12 December 2025