



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

Case Reference : **LON/ooAU/HMG/2025/0636**

Property : **Flat 2, The Hoover Building, Western Avenue, Greenford UB6 8AT**

Applicant : **Ms Donya-Arezou Hesabi**

Representative : **In person**

Respondent : **Gastony International Limited**

Representative : **Mr Dilwar Azad**

Type of Application : **Application for a rent repayment order by tenant**
: **Sections 40, 41, 43, & 44 of the Housing and Planning Act 2016**

Tribunal Members : **Judge N Hawkes**
Mr A Lewicki FRICS

Venue and date of final hearing : **12 January 2026 at 10 Alfred Place, London WC1E 7LR**

Date of Decision : **16 January 2026**

DECISION

Decision of the Tribunal

The Tribunal dismisses the Applicant's application for a rent repayment order.

The background

1. On 21 May 2025, the Applicant applied for a rent repayment order against the Respondent pursuant to section 41 of the Housing and Planning Act 2016 ("the 2016 Act").
2. Directions were given by the Tribunal on 15 August 2025 leading up to a final hearing.
3. Before 8.05 am on 9 January 2026, the Case Officer sent the parties a letter stating:

"Judge Hawkes has instructed me to write to the parties in the following terms, in advance of the hearing which is due to take place on 12 January 2026.

The Tribunal is aware that section 95 of the Housing Act 2004 includes provision that:

(3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time–
...
(b) an application for a licence had been duly made in respect of the house under section 87, and that ... application was still effective (see subsection (7)).
...
(7) For the purposes of subsection (3) ... application is "effective" at a particular time if at that time it has not been withdrawn, and either–
(a) the authority have not decided whether to ... grant a licence, in pursuance of the ... application, or
(b) if they have decided not to do so, one of the conditions set out in subsection (8) is met.

The Tribunal will invite submissions on the relevance or otherwise of these statutory provisions to the facts of the present case at the hearing."

4. Neither party had referred to these statutory provisions prior to receipt of the Tribunal's letter.

The hearing

5. The final hearing took place on 12 January 2026 as a face-to-face hearing at 10 Alfred Place, London WC1E 7LR.
6. The Applicant attended the hearing in person. The Respondent was represented at the hearing by Mr Azad of Counsel. Mr Azad was accompanied by Mr J Curtis, a Director of the Respondent Company, and by Ms S Asvarischtch, a Property Manager. An observer also attended who played no part in the proceedings.

The Tribunal's determinations

7. Chapter 4 of the 2016 Act, enables the Tribunal to make a rent repayment order where a landlord has committed any of the offences described in the table set out in section 40(3).
8. The offences include the control or management of an unlicensed house contrary to section 95(1) of the 2004 Act (row 6 in the table). In seeking a rent repayment order, the Applicant asserts that the Respondent has committed an offence under this section because the Property required a licence and was unlicenced until 10 March 2025.
9. To make an order, the Tribunal must be satisfied beyond reasonable doubt that the landlord has committed a relevant offence (see section 43(1) of the 2016 Act).
10. Section 40(2) of the 2016 Act provides (so far as is relevant) that a rent repayment order is an order requiring a landlord “to ... repay an amount of rent paid by a tenant”.
11. Section 41(2) of the 2016 Act provides (emphasis supplied).

“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.**”

12. It is common ground that, at the material time, the Applicant was a tenant of the Respondent at the Property. However, the Tribunal is not satisfied beyond reasonable doubt that the Respondent committed the alleged offence in the period of 12 months ending on 21 May 2025, when the application was made.

13. The Respondent has produced evidence demonstrating that an application for the necessary licence for the Property was made on 15 March 2023 and that it was due to delay on the part of the local authority that the licence was not granted until 2025. The Tribunal has been referred to correspondence from the local authority apologising for the delay and stating that the local authority was working through a large number of applications at the material time.
14. The Applicant is of the view that the Property should not have been let until it had a licence, and she believes that she has read something to this effect. She is not legally qualified, and she confirmed that she carried out a general internet for search as part of her preparation for the final hearing. The Tribunal notes that the AI summary to such an internet search can, in the Tribunal's experience, bring up inaccurate information. When directed to the express wording of the statute, the Applicant did not seek to argue that the defence provided for at section 95(3) of the 2016 Act did not apply on the facts of this case.
15. Further, having carefully reviewed the evidence, the Tribunal is satisfied on the balance of probabilities that from 15 March 2023 until the licence was granted the criteria set out at section 95(3) and 95(7) of the 2004 Act were satisfied. Accordingly, the Applicant's application is dismissed.
16. Having taken instructions from the Respondent's representatives, Mr Azad confirmed that the Respondent will not seek any order for costs against the Applicant. This is contrary to initial indications that an application would be made pursuant to rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Name: Judge Hawkes

Date: 16 January 2026

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).