



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

Case reference : **LON/00BG/HMF/2025/0747**

Property : **12 Doric House, Mace Street, London
E2 0RE**

Applicants : **(1) Muntazir Jaffer
(2) Timothy Searle-Barnes
(3) Lauren Skinner**

Representative : **Justice for Tenants**

Respondents : **Andrew Charles Simon Hurst**

Representative :

Type of application : **Rent repayment order – s.41 Housing
and Planning Act 2016**

Tribunal members : **Judge Tagliavini
Mr S Wheeler MCIEH CEnvH**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **4 December 2025**
Date of decision : **21 January 2026**

DECISION

The tribunal's decision

- (1) The application for a rent repayment order is refused. The tribunal finds the applicants have failed to prove an offence was committed pursuant to 72(1) Housing Act 2004 during the period for which a rent repayment order (RRO) is claimed.
 - (2) No order is made for the reimbursement of the fees paid by the applicants to the tribunal.
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The application

1. This is an application dated 28 March 2025 made pursuant to s.41 of the Housing and Planning Act 2016 which states:

(1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.

(2) 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.

2. The applicants allege the respondents have committed an offence under s.72(1) of the Housing Act 2004 by reason of having the control or managing an unlicensed house in multiple occupation, which is an offence under s.40(3) of the Housing and Planning Act 2016.

3. Section 72(1)HA 2004 states:

(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

The background

4. The subject property comprises a four-bedroom, two-storey maisonette in a purpose-built block of flats. The applicants allege that the subject property required an additional licence under the London Borough of Tower Hamlets Additional Licensing Scheme for Houses and Flats in

Multiple occupation which came into effect on 1st April 2019 to 31st March 2024.

5. In addition to the respondent's alleged failure to obtain the requisite licence the respondent also alleged that he:
 - (a) Breached section 7 of the 2006 Duties;
 - (b) Breached the Minimum Energy Efficiency Standards;
 - (c) Breached section 234(3) of the Housing Act 2004;
 - (d) Breached the local authority HMO standards.
6. The applicants collectively claim a RRO for the period 1/4/2023 to 31/03/2024 in the sum of £22,935.00 during which period the applicants occupied the subject property as their only home at a rent of £2,560.00 per calendar month pursuant to a tenancy agreement dated 15 April 2022. As only three of the four former tenants were parties to the application, the amount of a RRO has been adjusted and the sum of £648.75 per month deducted from the total rent paid in the relevant period of the RRO claimed.

The Law

7. The applicant asserts the respondents committed an offence under s.72(1) of the Housing Act 2004 in that they had the control or were managing the subject property. Section 263 of the Housing Act 2004 defines these terms as:
 - (1) *In this Act "person having control," in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.*
 - (2) *In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.*
 - (3) *In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises—*
 - (a) *receives (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; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

8. It is for the applicant to prove every element of the alleged offence on the criminal standard of proof i.e. beyond all reasonable doubt.

9. Section 72(5) of the Housing Act 2004 states:

(5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse—

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or

(b) for permitting the person to occupy the house, or

(c) for failing to comply with the condition,

...

10. The burden is on the respondent to establish the defence of 'reasonable excuse' on the balance of probabilities.

The hearing

The applicants' case

11. At the oral hearing, the applicants were represented by Mr James Cairns from Justice for Tenants and the respondent was represented by Mr Michael Fields of counsel. In addition, the tribunal was provided with a 270 page digital bundle and a 57 page reply bundle by the applicant and

a 219 page digital bundle was received from the respondent together with a number of additional documents and a witness statement. Although the latter documents were admitted late, the tribunal exercised its discretion and permitted the respondent to rely upon them as the applicants had an opportunity to review them and were not prejudiced by their late service as there were few factual issues in dispute between the parties at the date of the hearing.

12. At the hearing, the applicants relied upon the witness statements it had provided in the hearing bundle and the contents of these were confirmed by the applicants or went unchallenged. Although Mr Jaffer gave oral evidence to the tribunal this was substantially in respect of the mould and condensation problems that were allegedly experienced by the applicants. The respondent did not seek to challenge the written evidence of Ms Skinner and Mr Searle-Barnes as this added little to evidence already given by Mr Jaffer.

The respondents' case

13. In his oral evidence to the tribunal, Mr Hurst accepted he was an experienced landlord having acquired 6 rental properties to let to tenants, including the subject property which he had purchased in April 2022. Mr Hurst accepted he had been able to obtain the licences required for other properties and that the subject property had required an Additional Licence during the period for which the RRO was claimed.

14. The respondent asserted he had a defence of 'reasonable excuse' in that:

'... he believed that he had made an application for a licence prior to the start of the period of the claim.'

15. In his witness statement, the respondent asserted that he was informed by the LBTH that if he had made an application for a licence this would have generated a 6-digit number. Although the LBTH did not have a record of any 6-digit number the respondent relied upon email correspondence dated 16 January 2023 that recorded a 6-digit number. This stated:

*Subject: Case reference 156179
License application information attached as requested.
Thank you
Andrew Hurst
Director
Hurst&Hurst Estates Ltd*

16. In further email correspondence dated 20 August 2024 to LBTH, it was stated by the respondent that:

I have been trying for some time to file a new application for the HMO licence.

Unfortunately having almost completed the form I am now locked out and every time I try to reset my password correctly it refuses to accept it and your system will not let me back in.

I cannot try any harder and have wasted hours and hours on this now.

What do you suggest I do please?

One application lost somewhere in your system and another that it will not accept.

17. In answer to the complaints of damp and mouldy conditions and allegations of breaches of duties and local authority standards and duties, the respondent relied on the witness statement of Mr Timur Dogruyol of London Home Investments (the respondent's managing agent). In his evidence Mr Dogruyol told the tribunal that all complaints from the tenants were addressed promptly.

The tribunal's decision and reasons

18. The tribunal finds the applicant has failed to establish an offence was being committed during the period for which the RRO is claimed. The tribunal finds that no later than 16 January 2023 the respondent had applied for an additional licence. The tribunal accepts the documentary evidence in the form of email correspondence as being consistent and supporting the respondent's case that he had applied for an additional licence as soon as he became aware of the requirement in early 2023.
19. Consequently, having applied for a licence, the offence alleged under s.72(1) Housing Act 2004 was no longer being committed as from January 2023 as s.72(4) of the 2004 Act states:

(4)In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—

(a)... or

(b)an application for a licence had been duly made in respect of the house under section 63,

and that notification or application was still effective (see subsection (8)).

20. Section 72(8) Housing Act 2004 states:

(8) For the purposes of subsection (4) a notification or 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 serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.

21. The tribunal finds from the chain of email correspondence between the respondent and LBTH during 2023 and 2024 that an application for a licence had been made and the local authority failed to deal with it and appeared to have ‘lost’ it in their system. The tribunal accepts that subsequently the respondent was granted an unconditional licence for the subject property.
22. As the applicants have failed to prove beyond all reasonable doubt that the respondent was committing an offence pursuant to s.72(1) Housing Act 2004, the tribunal is not required to consider any further matters including the issue of quantum.
23. In so far as the respondent relies upon having genuinely believed he had applied for a licence in early 2023 the tribunal finds this is supported by the evidence relied upon. Consequently, although the tribunal finds the applicants have failed to prove their application, the tribunal also finds the respondent has both successfully raised a complete defence to the claim in addition to a defence of ‘reasonable excuse’ for not having a licence in place during the period for which the RRO is claimed.
24. In conclusion, the tribunal refuses the application for a RRO. Further the tribunal declines to make an Order requiring the respondent to reimburse the applicants’ fees paid to the tribunal.

Name: Judge Tagliavini

Date: 21 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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).