



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

Case Reference : HAV/00MR/HMC/2025/0002

Property : Flat 2, 12 Elphinstone Road, Southsea,
Hampshire PO5 3HR

Applicant : Tina Leeming

Representative :

Respondent : Mr Syed Samiullah

Representative :

Type of Application : Application for a rent repayment order by
Tenant
Sections 40, 41, 42, 43, 44 & 45 of the
Housing and Planning Act 2016

Tribunal Members : Judge C Skinner
Mr A Crawford MRICS

Date of Hearing : 6 January 2026

Date of Decision : 15 January 2026

DECISION

Summary of the Decision

- 1. The Tribunal is satisfied beyond reasonable doubt that the Respondent committed an offence under section 30 (1) of the Housing Act 2004 between 2nd May 2024 and 1st May 2025.**
- 2. The Tribunal has determined that it is appropriate to make a rent repayment order in favour of the Applicant against the Respondent as a landlord of the Property.**
- 3. The Tribunal makes a rent repayment order against the Respondent in the sum of £5,760.00**
- 4. Payment is to be made by the Respondent within 28 days of service of this order.**
- 5. The Tribunal determines that the Respondent shall pay the Applicants £337 as reimbursement of Tribunal fees, such payment to also be paid within 28 days.**

Introduction

1. The Applicant applied for a rent repayment order against the Respondent under Sections 40-44 of the Housing and Planning Act 2016 (“the 2016 Act”).
2. The basis for the application is that the Respondent was in breach of an Improvement Notice served under Chapter 2 of the Housing Act 2004 (“the 2004 Act”) and such breach amounts to an offence under Section 30(1) of the 2004 Act. Chapter 4 of the 2016 Act allows a tenant to apply for a rent repayment order if at a time when the offence was committed, it was let to that tenant. The Applicant claims that the Respondent’s offence was committed at a time when the Property was let to them.
3. The Applicant was granted an Assured Shorthold Tenancy of Flat 2, 12 Elphinstone Road, Southsea, Hampshire PO53HR (“the Property”) which comprises of a ground floor flat within a residential building that comprises of four flats in total. The tenancy commenced on 25 January 2019 for an initial term of 6 months. The rent was £600 per month falling due on the 25th day of each month.
4. The Applicant’s claim is for repayment of rent paid during the period from 2 May 2024 to 1 May 2025, amounting to £7,200.00.
5. The Tribunal has been provided by the Applicant a determination bundle consisting of 51 pages. Also provided is a Rent Statement from the Applicant consisting of 8 pages which is separate from the

determination bundle. It was prepared by Belvoir who are the letting agents retained by the Respondent. The rent statement covers all rent payments made from 12 July 2019 to 13 June 2025. The Tribunal has read the bundle and all associated material. References in this decision to page numbers in the bundle are indicated as [].

6. The lack of mention of any particular document or submission should not be regarded as indicating that it has not been taken into account. The Tribunal has focused on the key issues identified that require determination. In writing this decision the Chairman has had regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.
7. The hearing was conducted in person and was attended by the Applicant. The Respondent did not attend and was not represented.
8. No response had been directly received from the Respondent during the proceedings. As a result, on 16 September 2025 that Tribunal made a direction that the Respondent's letting agent Belvoir, disclose the Landlords postal address and any contact email that might be appropriate for use. On 6 October 2025 in compliance with that direction, Belvoir provided the Tribunal with the postal address they held for the Respondent. On 14 October 2025 they further confirmed that the Respondent had informed them that they did not use email anymore due to a visual impairment.
9. As a result of the information provided above, the Tribunal sent all further communication to the Respondent via post and to the address provided by Belvoir. This included on 10 October 2025 sending a full copy of the hearing bundle and all previous directions order made by the Tribunal and on 3 and 15 December 2025 letters regarding details of the final hearing listed for 6 January 2026.
10. In accordance with Rule 34 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal carefully considered if the hearing could proceed in the absence of the Respondent.
11. The Tribunal was satisfied that reasonable steps had been taken to notify the Respondent of the hearing in light of the letters sent to the postal address supplied by Belvoir and that he was either aware or ought to be reasonably aware of the proceedings and the final hearing. The Tribunal considered that it was in the interests of justice to proceed with the hearing in all the circumstances.

Relevant Statutory Provisions

12. The relevant statutory provisions are set out in the Schedule to this decision.

Alleged Offence

Improvement Notice

13. Portsmouth City Council served an Improvement Notice in relation to the Property on the Respondent on 6 November 2023 (the “Improvement Notice”). This was addressed to the Respondent and was dated 1st November 2023.
14. Section 11 of the 2004 Act allows a Local Authority to serve Improvement Notices in relation to two categories of hazard, Category 1 and Category 2, with Category 1 being the more serious. The Improvement Notice contained two Category 1 hazards and five Category 2.
15. The first Category 1 hazard covered excess cold, arising as a result of a lack of heating in the kitchen and a large hole being present within the floor under the bath in the bathroom. The second Category 1 hazard related to falling on the level surfaces, with evidence of significant disrepair, with rotting floorboards in the bathroom and kitchen, including the large hole in the floor of the bathroom.
16. The five Category 2 hazards in summary related to:
 - (1) damp and mould growth in the front lounge, bathroom and kitchen including a defective mechanical extract fan in the kitchen;
 - (2) the potential presence of asbestos and MMF in the lounge and rear bedroom walls;
 - (3) falling between levels in the bathroom and kitchen including missing floorboards and failing window restrictors;
 - (4) Fire Risk which included a lack of suitable fire detection in the kitchen and lounge, a lack of appropriate electrical sockets in the middle bedroom, the fire door only containing 2 hinges resulting in a significant gap between the smoke seals and the frame and
 - (5) Position and operation of amenities, relating to several screws missing from the bathroom door handle
17. The Improvement Notice required works specified within the Notice to be commenced no later than 1 December 2023 and for those works to be completed by 1st May 2024.

18. The Applicants contend that the Respondent breached the Improvement Notice on 2 May 2024 by not completing the works set out in Schedule 2 of the Improvement Notice by 1st May 2024. Section 30(1) of the 2004 Act provides that when an Improvement Notice becomes operative, the person on whom the notice was served commits an offence if he fails to comply with it. The Applicant argues that by not completing the works required under the Improvement Notice by 1 May 2024, an offence was committed by the Respondent (as the person on whom the notice was served).
19. The evidence presented by the Applicant for the Respondent's failure to complete the works is set out in a series of photographs of the Property dated 8 August 2025 [34 – 38] and details contained within emails from Matt Richardson (a Housing Regulations Officer within the Private Sector Housing Team at Portsmouth City Council) [25 – 33].
20. The Applicants evidence also contains details of works that the Landlord had completed and was set out within the email chain referred to above [32 – 33].
21. The Tribunal finds that the Applicants evidence clearly demonstrates a failure to carry out a substantial amount of the remedial works identified in the Improvement Notice. The photographs clearly show damp and mould present on the lounge walls, rotting floorboards (being held up by supports) in both the kitchen and bathroom and a large hole present in the bathroom, clearly visible from the flat below. The evidence from the City Council also supporting that evidence by confirming when they inspected the Property on 30th October 2024, they confirmed the Landlord had failed to comply with the Improvement Notice.
22. The Tribunal therefore determines that a breach of the Improvement Notice occurred on 2 May 2024 as a result of that failure. If a breach arose on that date, then by virtue of the application of Section 30(1) of the 2004 Act, the Respondent committed an offence on that date. In addition, as the Council's confirmation of the failure to carry out any works as of 30 October 2024 and the Applicants photographs of the Property taken on 8 August 2025, the offence had not been remedied by 8 August 2025, the date upon which the Applicant vacated the Property.
23. The Tribunal therefore determines that it is satisfied beyond reasonable doubt that the Respondent committed an offence pursuant to Section 30(1) of the 2004 Act on 2 May 2024 as a result of his breach of the Improvement Notice and that the breach had not been remedied by 8 August 2025.

Entitlement to apply for a Rent Repayment Order

24. Section 41 of the 2016 Act entitles a tenant to apply for a rent repayment order against a person who has committed an offence to which that Chapter of the 2016 Act applies. An offence under Section 30(1) of the 2004 Act is one such offence. The Section provides for a time limit for applications to be made and the Tribunal is satisfied that the Applicants brought their claim before the required time limit. In addition, an application can only be brought by a tenant to whom the relevant property is let when the offence was committed. As the Property was let to the Applicants when the offence was committed (2 May 2024), they are entitled to bring a claim against the person who has committed the offence.
25. Section 41 of the 2016 Act requires the claim to be brought against the person who committed the offence, in this case breaching the Improvement Notice. In this matter the Improvement Notice is addressed to the Respondent and the Tribunal finds that the Respondent is the Landlord and also the person who has committed the offence.
26. The Tribunal therefore determines that the Applicant is entitled to bring their application for a rent repayment order against the Respondent, unless the Respondent has a reasonable excuse for the offence (as provided by Section 30(3) of the 2004 Act).

Reasonable excuse

27. Accordingly, the Tribunal considered whether the Respondent had a reasonable excuse for committing the offence. This would operate as a defence to the claim and mean that a rent repayment order could not be made.
28. The Respondent has not responded to the Applicant's application and did not attend the hearing. No reasonable excuse has therefore been offered directly by the Respondent. Nevertheless, the Tribunal in reviewing all the evidence submitted has considered if a reasonable excuse might be available to the Respondent. Based on the evidence before it, The Tribunal on the balance of probabilities cannot find any such excuse.
29. As a result, the Tribunal finds that the Respondent does not have a reasonable excuse for the offence.

Consideration of grounds

30. The Tribunal is satisfied beyond all reasonable doubt that the offence was committed by the Respondent, that the Respondent does not have a reasonable excuse for the offence and was at the time the Applicant's landlord. The offence was committed on 2 May 2024 and had not been

remedied when the Applicant left the Property on 8 August 2025. The Applicant is claiming a rent repayment order for the period from 2 May 2024 to 1 May 2025. The Applicant's application was submitted on 5 April 2025.

31. The Tribunal finds the application was brought within the required timescales applicable under Section 41(b) of the 2016 Act. Accordingly, the Tribunal is satisfied that the Applicant can bring their claim in respect of that period.

Rent Repayment Order

32. Section 43 of the 2016 Act provides that where the Tribunal is satisfied beyond reasonable doubt that a landlord has committed a relevant offence, it may make a rent repayment order. The Tribunal does therefore have a discretion as to whether to make an order although it has been established that it would be exceptional not to make a rent repayment order (*Wilson v Campbell* [2019] UKUT 363 (LC)).
33. In this case, the Tribunal is satisfied beyond reasonable doubt that an offence has been committed and that there is no reasonable excuse for the offence. It does not consider that there are any exceptional circumstances preventing it making an order and therefore determines that a rent repayment order should be made.

Submissions on amount of order

34. Having determined that a rent repayment order should be made, the Tribunal next considered what the amount of such order should be.
35. The Applicants argued that the full rent paid by them for the period from 2 May 2024 to 1 May 2025 (£7,200.00) should be repaid to them, arguing that the failure to comply with an Improvement Notice was a serious offence and had caused significant disruption and misery to the Applicant as a result of the living conditions at the Property and repeated failures of the Landlord to address the valid concerns being raised by the Applicant over the need for repairs to the Property.
36. The Tribunal was provided with no evidence as to whether the Respondent had any prior convictions for relevant offences or whether he owned a portfolio of properties or just the Property.

Method of assessing amount of order

37. Section 46 of the 2016 Act specifies circumstances where the Tribunal is obliged to make a rent repayment order in the maximum amount (subject to exceptional circumstances). These do not apply here. The

Tribunal therefore has discretion as to the percentage of the rent it can order be repaid.

38. Section 44 of the 2016 Act specifies the factors that the Tribunal must take into account in making a rent repayment order. This has been qualified by the Upper Tribunal in guidance given in the case of *Acheampong v Roman* [2022] UKUT 239. That guidance is summarised as follows:

- (i) ascertain the whole of the rent for the relevant period;
- (ii) subtract any element of that sum that represents payment for utilities that only benefited the tenant, e.g. gas, electricity and internet access;
- (iii) consider how serious the offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence?
- (iv) finally, consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in section 44(4), namely the 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 section 45 of the 2016 Act.

Tribunal assessment of amount of order

39. The Tribunal agrees with the Applicant's calculation that the rent paid for the period claimed (2 May 2024 to 1 May 2025) amounted to £7,200.00. The Applicants state that they did not receive any Universal Credit. This is based on the rent statement showing the rent remained

at £600 per month throughout the period claimed and the period claimed for is 12 months in total.

40. The tenancy agreement between the parties provided that the tenants were responsible for payment of electricity, gas, telephone and council tax. The Applicant confirmed to the Tribunal in submissions that she was responsible for payment of all utility bills relating to the Property. There is no evidence that the Respondent paid for any utilities or for any associated provision. Accordingly, the Tribunal makes no deduction for utilities or other matters provided or paid for by the Respondent.
41. The Tribunal considered the seriousness of the offence. The assessment of the seriousness of the offence is made not only against the other offences listed in Chapter 4 of the 2016 Act but also against other breaches of the same offence.
42. Breach of an Improvement Notice is punishable by way of a fine. Improvement Notices can vary greatly in terms of their content and requirements and are designed to cover a wide range of situations where improvements are needed at a property to address the variety of hazards that the 2004 Act identifies. This can range from single issue items relating to lower-level hazards, through to serious risks under Category 1 hazards relating to issues of fire safety and structural failings.
43. The Tribunal finds that in this application, the Improvement Notice identified two category 1 hazards and five category 2 hazards as identified at paragraphs 15 and 16 above. Several of the hazards identified linked to issues of damp and mould, fire safety, adequate heating and rotting floorboards (including a large hole being present in the floor of the bathroom). These hazards, in particular the category 1 hazards, are at the more serious end of the scale.
44. In her evidence, the Applicant confirmed that the following works had been done.
 - (i) On 17 April 2024, a specialist damp contractor had carried out a survey and provided a report on works required at the Property.
 - (ii) A new heat detector and radiator were installed in the kitchen by August 2024, although the radiator was not plumbed in until a later date.
 - (iii) A qualified electrician installed an extractor fan in the kitchen by November 2024.

(iv) Smoke detectors were fitted in the Property by August 2024.

45. The evidence provided by the Applicant via the photographs of the Property on 8 August 2025 and the emails from Portsmouth City Council confirm that no other works required by the Improvement Notice were completed.
46. In considering the seriousness of the offence, the Tribunal accepts the evidence of the Applicant in respect of the works completed and as such, accepts the evidence of the failure to complete any of the other works identified in the Improvement Notice. The Tribunal also considers that only the damp survey and report was completed within the original timescale required under the Improvement Notice and only three other repairs were completed beyond that.
47. The category 1 hazards and works required to remedy the same were partially complied with, albeit outside of the timescales required, in that a radiator was installed into the kitchen and a survey into the damp at the Property was completed. However that partial compliance, particularly in respect of the rotting floorboards, was insufficient to remedy the hazard identified under the heading “Falling on the level surfaces”.
48. The photographs supplied by the Applicant demonstrate a clearly dangerous and unacceptable condition to the floorboards with the hole in the bathroom floor still present on 8 August 2025. The hole was significant enough to provide a clear view to the basement flat below. Work conducted to support the floorboards and provide support to the joists was not conducted by the Respondent but by contractors operating in the basement flat. The Respondent taking no action to resolve the clearly dangerous and unsatisfactory hazard and risk identified under the Improvement Notice.
49. In respect of the five category 2 hazards identified in the Improvement Notice, there has been a complete failure to engage in any remedial works required in respect of Asbestos and MMF works, the Falling between levels works and the positioning of amenities work. There has been eventual compliance with the fire safety works and only partial compliance with the damp and mould growth works (namely the completion of the damp survey and report) but no works conducted to address the underlying issues of damp at the property which is still clearly present in the photographs provided by the Applicant.
50. Taking the Tribunal's findings on the above into account, the Tribunal finds that the breach of the Improvement Notice is serious especially in connection to the failings to remedying issues of rotting floorboards and damp and mould, to the extent the Applicant has lived in the Property with a large hole in the bathroom. The Tribunal finds these

were serious issues relating to the condition of the property and a risk to the safety and wellbeing of any occupier.

51. The Tribunal considered the conduct of the Respondent and the Applicant. There is no evidence of whether the Respondent is a professional or experienced landlord. The Tribunal found that the Respondent's actions in largely ignoring the requirements of the Improvement Notice do need to be taken into account, along with a significant failure to engage in any proper dialogue or communications with the Applicant over remedying the defects identified within the Improvement Notice.
52. No evidence of the Respondent's financial circumstances were provided. The Tribunal notes that there was no evidence that the Respondent had previously been convicted of an offence identified in the table in section 45 of the 2016 Act (which is set out in the Schedule to this decision).
53. In respect of the Applicant's conduct, the Tribunal finds that at no stage did the Applicant fail to pay her rent throughout the entire period, nor did she threaten to withhold her rent. The Applicant attempted on multiple occasions to engage with her Landlord over the repairs required at the Property and then engaged with the Local Authority over her concerns around the condition of the Property. The Tribunal finding the Applicants conduct in this regard to be reasonable when faced with the significant issues relating to the condition of the Property.
54. Taking all these factors into account, the Tribunal determined that the amount payable by the Respondent should be reduced by 20%, leaving the amount to be repaid as £5,760.00.

Tribunal determination

55. The Tribunal finds beyond all reasonable doubt that the Respondent committed on 2 May 2024 the offence of breach of an Improvement Notice as provided by Section 30(1) of the 2004 Act. The Tribunal finds that the Respondent does not have a reasonable excuse for the offence and was at the time the Applicants' landlord. The offence had not been remedied when the Applicants left the Property on 8 August 2025 and therefore had not been remedied by 1 May 2025.
56. The Tribunal has determined that it should make a rent repayment order for it and has calculated the amount of that order as £5,760.00.
57. Accordingly, the Tribunal orders the Respondent to repay to the Applicants the sum of £5,760.00 by way of rent repayment, such repayment to be made within 28 days of the date of this decision.

Application for Reimbursement of Fees

58. The Applicant also made an application for the reimbursement of the fees paid to the Tribunal. The Tribunal has therefore considered whether to make an order under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 that the Respondent reimburse the application fee of £110.00 and the hearing fee of £227.00.
59. As the Applicant has been successful in this claim, the Tribunal is satisfied that some level of reimbursement of these fees should be made. It considers that the failure of the Respondent to engage in any way in the process means that all of these fees should be reimbursed.
60. The Tribunal therefore orders the Respondent to reimburse to the Applicant each of the application fee of £110 and the hearing fee of £227 (amounting to £337 to be reimbursed in total), such repayment to be made within 28 days of the date of this decision.

RIGHTS OF APPEAL

61. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk
62. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
63. If the person wishing to appeal does not comply with the 28- day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28- day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
64. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

SCHEDULE

Relevant statutory provisions

Housing and Planning Act 2016

Section 40

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.
- (2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to – (a) repay an amount of rent paid by a tenant ...
- (3) A reference to “an offence to which this Chapter applies” is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

	Act	section	general description of offence
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of

			unlicensed house
7	This Act	section 21	breach of banning order

Section 41

- (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.

Section 43

- (1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).
- (2) A rent repayment order under this section may be made only on an application under 41.
- (3) The amount of a rent repayment order under this section is to be determined in accordance with – (a) section 44 (where the application is made by a tenant) ...

Section 44

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.
- (2) The amount must relate to rent paid during the period mentioned in the table.

<i>If the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to rent paid by the tenant in respect of</i>
an offence mentioned in row 1 or 2	the period of 12 months ending

of the table in section 40(3)	with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

- (3) The amount that the landlord may be required to repay in respect of a period must not exceed – (a) the rent paid in respect of that period, less (b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.
- (4) In determining the amount the tribunal must, in particular, 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 to which this Chapter applies.

Housing Act 2004

Section 30

- (1) Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it.
- (3) In proceedings against a person for an offence under subsection (1) it is a defence that he had a reasonable excuse for failing to comply with the notice.