



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : MAN/00BY/HMG/2024/0602

Property : 30 Douglas Road, Liverpool, L4 2RQ

Applicant : Joanna Coulson

Representative : Justice for Tenants

Respondents : 1. Richard James
2. Hilary James

Type of Application : Housing and Planning Act 2016 –
Section 41(1)

Tribunal Members : Judge L. F. McLean
Mr J. Faulkner FRICS

Date of Hearing : 17th December 2025

Date of Decision : 23rd January 2026

DECISION

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DECISIONS OF THE TRIBUNAL

- (1) The Tribunal is satisfied, beyond reasonable doubt, that the Respondents committed an offence under section 95(1) of the Housing Act 2004 without reasonable excuse.
- (2) The Tribunal makes a Rent Repayment Order against the Second Respondent in the sum of £6,477.20 to be paid to the Applicant within 28 days of the date of this Decision.
- (3) The Tribunal further orders that the Second Respondent shall pay the Applicant an additional £337, as reimbursement of the application and hearing fees, within 28 days of the date of this Decision.

REASONS

The Application

1. On 14th November 2024, the Applicant applied to the Tribunal for a Rent Repayment Order (i.e. an order under Section 41(1) of the Housing and Planning Act 2016 requiring the landlord under a tenancy of housing in England to repay an amount of rent paid by a tenant) (“RRO”) against the Respondents in respect of rent paid by the Applicant under a tenancy of 30 Douglas Road, Liverpool, L4 2RQ (“the Property”).

Background

2. The Second Respondent is (or was at the material times) the registered proprietor of the Property at HM Land Registry (and thus the landlord thereof).
3. The First Respondent is reportedly the husband of the Second Respondent. The evidence of the Applicant shows that he effectively managed the Property and received the rent for it.
4. The Applicant was the tenant of the Property from around 20th December 2022 until 5th December 2023.
5. The Applicant initially signed a temporary accommodation agreement for the Property offered on 12th December 2022 and counter-signed on around 14th December 2022, pending the eviction of the existing tenants of other premises – which, presumably, the Applicant had originally intended to rent. The initial rent was stated to be £600 for the period from 20th December 2022 to 20th January 2023 (which was paid on 12th December 2022), and £750 per month thereafter (expressed, somewhat inaccurately, as “£187.50 per week”). The agreement was signed by the First Respondent. The

landlord was not clearly named or identified, but the document was branded under the name of “James Development Group”.

6. The Applicant paid a total of £8,096.50 in rent payments for the Property between 12th December 2022 and 20th November 2023.
7. On 17th September 2025, the Tribunal gave directions for each party to prepare an electronic bundle of relevant documents, including written submissions and copies of evidence upon which each party relied. The Applicant submitted her bundle, consisting of some 108 pages and to which the Tribunal has had regard. The Respondents did not produce any bundle in readiness for the hearing.

Grounds of the Application

8. The Applicant's grounds for seeking a RRO were set out in her application notice dated 14th November 2024 and expanded statement of reasons dated 7th October 2025, and these included the following criminal offence which she alleged had been committed by the Respondents:-
 - i. Housing Act 2004 Section 95(1) – Offence of having control of or managing a house which is required to be licensed under Part 3 of the Housing Act 2004 (see section 85(1)) but is not so licensed – committed between 12th December 2022 and 5th December 2023.

Issues

9. The issues which the Tribunal had to decide were:-
 - i. Is the Tribunal satisfied, beyond reasonable doubt, that the Respondents have committed one or more of the offences set out at Section 40(3) of the Housing and Planning Act 2016?
 - ii. Did the offence(s) relate to housing that, at the time of the offence, was let to the Applicant?
 - iii. Was an offence committed in the period of 12 months ending with the date the application was made?
 - iv. In all the circumstances, should the Tribunal make a RRO against the Respondents?
 - v. What is the maximum amount that can be ordered under section 44(3) of the Act?
 - (a) What is the applicable 12-month period?
 - (b) Ascertain the whole of the rent for the relevant period
 - (c) Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access
 - vi. What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence?
 - vii. 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) of the Housing Act 2004, based on:-
 - (a) The conduct of the Respondents?

- (b) The financial circumstances of the Respondents?
- (c) Whether the Respondents have at any time been convicted of any relevant offences?
- (d) The conduct of the Applicant?
- (e) Any other factors?

Relevant Law

10. The relevant sections of the Housing and Planning Act 2016 read as follows:-

40 Introduction and key definitions

(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, or
- (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy.

(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.

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
1	Criminal Law Act 1977	Section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	Section 1(2), (3) or (3A)	unlawful 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	Housing and Planning Act 2016	Section 21	breach of banning order

41 Application for rent repayment order

(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.

43 Making of rent repayment order

(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 section 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);

(b) section 45 (where the application is made by a local housing authority);

(c) section 46 (in certain cases where the landlord has been convicted etc).

44 Amount of order: tenants

(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.

If the order is made on the ground that the landlord has committed	the amount must relate to rent paid by the tenant in respect of
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending 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.

11. Section 95 of the Housing Act 2004, so far as is relevant, reads as follows:-

95 Offences in relation to licensing of houses under this Part

(1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

[...]

In proceedings against a person for an offence under subsection (1) or (2) 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 failing to comply with the condition, as the case may be.

The Hearing – Procedure, Evidence and Submissions

Absence of the Respondents

12. The hearing took place remotely via the HMCTS CVP service on 17th December 2025 with a scheduled start time of 10.00am.
13. The Applicant was represented by James Cairns of Justice for Tenants. Also in attendance were the Applicant and her son Josh Coulson.
14. There was no appearance by or representation on behalf of the Respondents and there was no application to adjourn the hearing. The Tribunal invited representations from the Applicant on whether the hearing should proceed in the absence of the Respondents, pursuant to Rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Applicant's representative referred to evidence of the attempts which had been made to bring the proceedings and the hearing details to the Respondents' attention. This included:-
 - i. Sending a copy of the application and full final hearing bundle (including the hearing date) by post to
 - (a) the Property;
 - (b) the Second Respondent's registered address at HM Land Registry; and

- (c) 99 Stanley Road, Liverpool L20 7DA (being the trading address for James Development Group);
- ii. Notice of hearing sent by email to rjames@jamesdevelopmentgroup.co.uk;
 - iii. Notice of hearing sent by email to propertypeople@outlook.com;
 - iv. Notice of hearing sent by WhatsApp message to the First Respondent's mobile phone number.
15. The Tribunal members were able to confirm, having checked the case file, that notice of the hearing had recently been posted again by the Tribunal Office to Richard James and to Hilary James (under separate cover) to both the Second Respondent's address in Denbigh and to the address at 99 Stanley Road. The Respondents had been asked whether they had an email address to which details of the video hearing could be sent, but there had been no reply.
16. The Tribunal members were satisfied that the Respondents had been given adequate notice of the hearing. It was in the interests of justice to proceed, as the Respondents had shown no interest in attending the hearing and it would be a fruitless exercise to delay the hearing further.

Witness Evidence

17. The Applicant was invited to confirm the contents of her witness statement. She had nothing further to add by way of oral evidence. The Tribunal accepted her statement as her evidence in chief and had no further questions for her.
18. Josh Coulson was invited to confirm the contents of his witness statement. He had nothing further to add by way of oral evidence. The Tribunal accepted his statement as his evidence in chief and had no further questions for him.

Proposed Order

19. The Tribunal had already had regard to the Applicant's written submissions regarding the basis on which a RRO was sought.
20. The Tribunal concluded the hearing and retired to deliberate.

The Tribunal's Decision

Is the Tribunal satisfied, beyond reasonable doubt, that the Respondents have committed one or more of the offences set out at Section 40(3) of the Housing and Planning Act 2016?

21. The uncontested evidence of the Applicant is that:-
- i. the Property required a licence under the selective licensing scheme operated by Liverpool City Council from 1st April 2022 until 31st March 2027;

- ii. no such licence was in place at any point after 31st March 2020 and was still not in place as at the end of the tenancy;
 - iii. the First Respondent was the person who received the rack-rent of the Property (whether on his own account or as agent or trustee of another person) and was thus the “person having control” of the Property (Section 263(1) Housing Act 2004);
 - iv. the Second Respondent was the legal owner of the Property who received (whether directly or through an agent or trustee) rents or other payments from the Applicant in occupation as tenant of the whole of the Property (or would so have received those rents 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 thus the “person managing” the Property (Section 263(1) Housing Act 2004).
22. There was no evidence to suggest that any licence had been applied for. Neither was there any evidence to suggest the existence of any “reasonable excuse” for failing to have a licence or to apply for one.
23. Accordingly, the Tribunal is satisfied beyond reasonable doubt, and finds as fact, that each of the Respondents had committed the offence under Section 95(1) for the entire duration of the relevant periods before and during the tenancy from 12th December 2022 to 5th December 2023.

Did the offence(s) relate to housing that, at the time of the offence, was let to the Applicant?

24. Yes. The Applicant was the tenant of the Property for the material time during which the offence was committed.

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

25. Yes. The offence was committed continuously until at least 5th December 2023, and the application was made on 14th November 2024.

In all the circumstances, should the Tribunal make a RRO against the Respondents?

26. Under Section 40(2) of the Housing and Planning Act 2016, a RRO may be made by the Tribunal against “the” landlord under a tenancy. The Supreme Court has confirmed that the appropriate party against whom the RRO should be made is the immediate landlord of the applicant tenant (*Rakusen v Jepsen* [2023] UKSC 9). The “landlord” in this context usually means the person who was entitled to grant the tenancy which led to the rent being generated, i.e. a person with a legal estate in possession, although there are circumstances when

a landlord and tenant relationship can be inferred between a person who did not actually hold a legal estate if they have purported to grant exclusive possession to another (see *Bruton v London and Quadrant Housing Trust* [1999] UKHL 26). This position will be changed when the reforms under the Renters' Rights Act 2025 are brought into force, but this is still awaited as at the date of this decision.

27. The Tribunal noted that the tenancy agreement for the Property was signed by the First Respondent, rent was frequently paid to the First Respondent (and not at all to the Second Respondent), and that the Applicant and her son referred to the First Respondent as "the landlord". However, the Tribunal is aware that tenants will habitually and colloquially refer to their main point of contact as being "the landlord", even if that person is merely an agent or director acting on the true landlord's behalf. There was no evidence, other than possibly circumstantial evidence, that the Second Respondent had leased the Property to the First Respondent and/or that the First Respondent was entitled to sub-let the Property. There is no registered leasehold interest noted against the freehold title for the Property. The Tribunal was not invited to infer the existence of a "rent-to-rent" relationship between the Respondents, and it does not do so in any event.
28. The Tribunal accordingly finds, on the evidence available, that the "landlord" of the Property was the Second Respondent and that the First Respondent acted as her agent. As such, the Tribunal is only able to make a RRO against the Second Respondent.
29. The Tribunal also found that it was just and appropriate to make a RRO against the Second Respondent.

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

What is the applicable 12-month period?

30. For the purposes of Section 44(2) of the Housing and Planning Act 2016, the maximum period which can be taken into account is 12th December 2022 until and including 5th December 2023.

Ascertain the whole of the rent for the relevant period

31. As noted earlier, the whole of the rent actually paid by the Applicant came to £8,096.50. This was less than the original contracted rent, due to various discounts offered by the First Respondent for inconvenience to the Applicant and also due to the final instalment being reduced pro-rata.

Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access

32. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal will be able to make an informed estimate.
33. The Applicant's evidence was that she was liable for utility costs in respect of the Property, as provided for in the tenancy agreement. The Applicant's bank statements indicated that she paid for water and gas/electricity utilities.
34. There was no evidence to suggest that any utilities or other services, entitlements or benefits were included in the rent payments.
35. No deduction is to be made under this heading.

What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence?

36. The Tribunal should consider how serious this offence was, both compared to other types of offence in respect of which a RRO 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.
37. A percentage proportion, according to seriousness, is the starting point (in the sense that that term is used in criminal sentencing); it is the default penalty in the absence of any other factors but it may be higher or lower in light of the final step.
38. The Applicant had contended for a "starting point" of 80%, in line with more serious cases summarised in *Newell v Abbott* [2024] UKUT 181 (LC), such as *Aytan v Moore* [2022] UKUT 27 (LC), *Choudhury v Razak* [2022] UKUT 239 (LC), and *Irvine v Metcalfe* [2023] UKUT 283 (LC). This was on the grounds of the Respondents being professional landlords, the Respondents having evidently known (or ought to have known) that the Property required a licence under a selective licensing scheme as it had done in the past, the significant length of the failure to licence, the fire safety risks present in the Property, the damp and mould present in the Property, and the Respondents' failure to return her deposit at the end of the tenancy.
39. The Tribunal broadly agreed with the Applicant's position, although on balance considered that a "starting point" of 75% was a fairer figure since the fire safety risks were of a less serious nature (being the absence of certain safety precautions rather than the presence of an inherent risk of combustion or explosion).

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) of the Housing Act 2004

The conduct of the Respondents

40. The Tribunal agreed that the Respondents' conduct was poor. The Applicants were denied the use of a dining room at the Property as the Respondents were storing personal belongings in it. The Property was undersized for the Applicant's household and she was forced to use the living room as a bedroom. The First Respondent broke promises to move the Applicant and her family into a larger home. There were repeated failures by the Respondents to deal with their repairing obligations. These issues meant that the Applicant had to seek assistance from Shelter.

The financial circumstances of the Respondents

41. No direct evidence was available regarding the Respondents' financial circumstances. It is evident that the First Respondent's property management company, James Development Group Limited, has been put into liquidation. However, the reasons for this are not entirely clear, and it would be speculative to draw any conclusions as to what financial impact that may have had upon the Respondents themselves.

Whether the Respondents have at any time been convicted of any relevant offences

42. There was no evidence that either of the Respondents had been convicted of any relevant offences.

The conduct of the Applicant

43. The Applicant's unchallenged evidence was that she conducted herself in a good and tenantlike manner.

Any other factors

44. There were no other substantial factors to bear in mind.

Net adjustment

45. The Applicant had contended that, overall, the aggravating factors set out above merited an "uplift" of 5% in the percentage of rent to be repaid under the RRO. The Tribunal agreed with this view.

Total amount of RRO payable

46. The total amount to be paid by the Second Respondent under the RRO is as follows:-

$$£8,096.50 \times (0.75 + 0.05) = £6,477.20$$

Costs of the proceedings

47. The Applicant sought payment of the cost of the application fee and the hearing fee. The Tribunal is empowered to award such costs under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Applicant has succeeded in her case, and so it is just and equitable to order that her costs be paid. The Tribunal makes this award of costs against the Second Respondent only, being the person against whom the RRO is made.

Name:
Judge L. F. McLean
Mr J. Faulkner FRICS

Date: 23rd January 2026

Rights of appeal

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).