



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

Case reference : **CAM/26UC/HMK/2024/0002**

Property : **6 Long John, Hemel Hempstead,
Hertfordshire, HP3 9LT**

Applicant : **(1) Mr Johan Grobler
(2) Mr Roland Zsolt Veres**

Representative : **Mr Edward Phillips, Justice for Tenants**

Respondent : **Mr Mohammad Hussain**

Representative : **In person**

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

Tribunal members : **Judge K Gray
Mr Adarsh Kapur**

Venue : **Watford County Court, 10 King Street,
Watford, WD18 0BW**

Date of decision : **14 April 2025**

DECISION

Decisions of the tribunal

- (1) The tribunal finds that the Applicants are entitled to rent repayment orders under section 41 of the Housing and Planning Act 2016 and that such orders ought to be made.
- (2) The amount of the rent repayment order awarded to the First Applicant, determined under section 44 of the Housing and Planning Act 2016, is £6390.00 payable by the Respondent to the Applicant within 28 days of this decision.
- (3) The amount of the rent repayment order awarded to the Second Applicant, determined under section 44 of the Housing and Planning Act 2016, is £4270.00 payable by the Respondent to the Applicant within 28 days of this decision.
- (4) The Respondent shall pay the Applicants £440.00 in respect of the reimbursement of the tribunal fees paid by the Applicants within 28 days of this Decision.

The application

1. By an application dated 9 February 2024 (“the Application”) made under section 41 of the Housing and Planning Act 2016 (“the 2016 Act”) the Applicant tenants sought a rent repayment order (“RRO”) against the Respondent landlord.
2. The Applicants assert that the Respondent had control of or was managing a house in multiple occupation (“a HMO”) which was required to be licenced under the Housing Act 2004 (“the 2004 Act”) but which was not so licenced. The First Applicant also asserts that the Respondent is guilty of the offence of unlawful eviction or harassment, contrary to sections 1(2), (3) or (3A) of the Protection from Eviction Act 1977 (“the 1977 Act”).
3. The background to this application is set out in i) the 252 page bundle prepared by the Applicants; ii) the document entitled “statement of truth” prepared by the Respondent dated 10 February 2025 and the documents exhibited to it; and iii) the 2 page Reply prepared by the Applicants. In addition, the tribunal was provided with video evidence recorded by the First Applicant and with video doorbell footage provided by the Respondent. The parties confirmed at the outset of the hearing that these were the relevant documents and evidence upon which they wished to rely, and we have considered them carefully.

The hearing

4. The Applicants were represented by Mr Phillips, an advocate employed by Justice for Tenants. The First Applicant and the Respondent attended in person. The Second Applicant did not attend the hearing.
5. The Respondent sought permission to rely on a document dated 19 March 2025 entitled "Response to Applicants' Reply". The Applicants objected to the admission of this document. We did not grant the permission sought because there was no provision in the tribunal's directions of 16 October 2024 for the Respondent to provide further documents after the Applicants' Reply, and in any event we considered that the matters raised in the document could be dealt with by the Respondent in cross-examination and submissions.
6. Both the First Applicant and the Respondent gave oral evidence. The First Applicant confirmed the content of his witness statement dated 7 July 2023 and was cross-examined by the Respondent. The Respondent confirmed the content of his statement of truth dated 10 February 2025 and was cross-examined by Mr Phillips. Mr Phillips and the Respondent made closing submissions. We reserved our decision.

The background

7. The subject property is a three-storey, five-bedroom terraced house with a garage/garden room which has been converted into another bedroom. Neither party requested an inspection of the property, and the tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.
8. The First Applicant's case is that he was the tenant of Room 4 in the property between July 2021 until 21 February 2023 pursuant to the terms of an oral tenancy agreement made between the Respondent as landlord and the First Applicant as tenant.
9. The Second Applicant's case is that he was the tenant of Room 6 (the garage/garden room) at the property between February 2020 to May 2023 pursuant to the terms of an oral tenancy agreement made between the Respondent as landlord and the Second Applicant as tenant.
10. Both Applicants say that the property required a HMO licence during their occupation, but that no licence was obtained by the Respondent until 12 October 2023. The First Applicant also says that the Respondent's behaviour towards him in the days before he left the property amounted to unlawful eviction or harassment.
11. The Respondent does not admit that he has committed any of the offences alleged. If he is found to have committed an offence, he asserts that no RRO should be granted or, if a RRO is granted, the sum awarded should be reduced.

The issues

12. At the start of the hearing the parties agreed that the following issues remain in dispute and require determination:
 - (i) Whether the tribunal is satisfied beyond reasonable doubt that the Respondent has committed an offence or offences to which Chapter 4 of the 2016 Act applies.
 - (ii) whether the Applicants or either of them are entitled to a RRO under sections 41 and 43 of the 2016 Act; and if so
 - (iii) the amount of the RRO, to be determined in accordance with section 44 of the 2016 Act.
13. Having heard evidence and submissions from the parties and considered all the documents provided, the tribunal makes determinations on these issues below. We focus in our judgment on the main points that have been identified by the parties, though we have considered all the documents and the evidence and the issues raised and taken these into account.

Legal framework

14. Section 40 of the 2016 Act provides that a RRO is an order requiring the landlord under a tenancy of housing in England to repay an amount of rent which has been paid by a tenant.
15. Section 41 of the 2016 Act provides:

(1) A tenant ... 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.”
16. Section 43 of the 2016 Act provides:

(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.

17. The relevant offences to which Chapter 4 of the 2016 Act applies are set out at section 40 of the 2016 Act. They include the offence under section 72(1) of the 2004 Act of controlling or managing an unlicensed HMO and the offences under section 1(2), (3) or (3A) of the 1977 Act of evicting or harassing occupiers.

18. Section 72 of the 2004 Act provides, so far as is material:

(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.

19. The definition of a HMO is found in section 254 of the 2004 Act, which sets out various tests by which a building may fall within the definition of a HMO. By section 254(2) of the 2004 Act:

“a building or a 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.

20. A person “having control” of premises means

“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”.

21. A person “managing” premises means:

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....”

22. By section 1(2) of the 1977 Act:

“If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises”.

23. By section 1(3) of the 1977 Act:

“If any person with intent to cause the residential occupier of any premises—

(a) to give up the occupation of the premises or any part thereof; or

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence”.

24. By section 1(3A) of the 1977 Act:

“(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—

(a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or

(b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,

and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.”

25. The amount of a RRO is to be determined under section 44 of the 2016 Act as follows:

“...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 [the period of 12 months ending with the date of the offence / a period, not exceeding 12 months, during which the landlord was committing the offence], 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.”

Findings

Has the Respondent committed a relevant offence?

26. We consider first whether the Respondent has committed an offence under section 72(1) of the 2004 Act, namely being a person having control of or managing an HMO which is required to be licensed but is not so licensed.
27. It was not disputed that the property consists of one or more units of living accommodation not consisting of a self-contained flat.
28. The First Applicant exhibited to his witness statement a spreadsheet showing who lived in each of the bedrooms in the property during the period July 2021 to 21 February 2023. He was asked by Mr Phillips whether the spreadsheet was accurate. He confirmed that it was. The

spreadsheet showed that all six bedrooms were occupied by individuals in that period and in particular that:

- (i) during the period June 2021 to December 2021, there were 6 people living at the property.
 - (ii) during the period January 2022 to August 2022, there were 7 people living at the property.
 - (iii) during the period September 2022 to 21 February 2023, there were 6 people living at the property.
- 29. There was no suggestion that these individuals all formed part of a single household, nor that they were occupying the rooms other than as their only or main residence, nor that the bedrooms or the property were put to any other use.
- 30. The First Applicant also exhibited to his witness statement a document setting out the rent that he had paid in respect of his occupation of room 4 at the property during the period 1 February 2022 – 31 January 2023. He also exhibited bank statements showing regular rent payments made to the Respondent during the period 5 July 2021 – 9 December 2022. Again, he was asked by Mr Phillips to confirm that these documents were accurate and he confirmed that they were.
- 31. The evidence of the First Applicant on these points was given in a clear and straightforward manner and was not challenged in cross examination. The Respondent did not produce any evidence to counter the assertions made by the First Applicant. For these reasons we accept the First Applicant's evidence and we are satisfied beyond reasonable doubt that:
 - (i) the property consists of one or more units of living accommodation not consisting of a self-contained flat.
 - (ii) the living accommodation was during the period July 2021 to 21 February 2023 occupied (as their only or main residence) by persons who did not form a single household.
 - (iii) Rent was payable to the Respondent during the period July 2021 to 21 February 2023 in respect of the First Applicant's occupation of room 4 at the property.

32. The First Applicant's written evidence was that on the ground floor of the property there was a kitchen and a shower room which were shared by the occupiers of the property, save for the Respondent who had sole use of the bathroom and kitchen on the first floor of the property. The Respondent disputed whether the facilities on the first floor were for his sole use. He asserted that the tenants were welcome to use the first floor bathroom and that the First Applicant had admitted doing so from time to time.
33. Having carefully considered the evidence of both witnesses on this point, we prefer the evidence of the First Applicant. He gave detailed written evidence on the issue in his witness statement, which was not shaken in cross-examination. His oral evidence that he had been shown both kitchens and bathrooms before he moved in only later to be told by the Respondent that the first floor facilities were private was given clearly and straightforwardly, as was his evidence that the Respondent would complain if anyone were to use the first floor bathroom.
34. Conversely, the Respondent did not address the point in his written evidence at all and we found his oral evidence unsatisfactory. He did not suggest that the tenants were able to use the first floor kitchen. Indeed, he questioned the First Applicant at some length about why he would want to use the first floor kitchen when there was a kitchen downstairs. At one stage in his evidence he suggested that the tenants were "welcome" to use the first floor bathroom, but in his submissions relied on the First Applicant's evidence of the complaints that the Respondent had made about the tenants' use of the first floor bathroom as evidence that they did use it. We found that position to be contradictory – if the tenants were welcome to use the bathroom then the Respondent would not have had cause to complain about it.
35. For these reasons, we are satisfied beyond reasonable doubt that the occupiers of the property, save for the Respondent, were not entitled to use the first floor bathroom and kitchen, and that two or more of the households living in the property shared basic amenities, namely the ground floor kitchen and bathroom. We are accordingly satisfied in light of our findings above that the property was in the period June 2021 to 21 February 2023 occupied by six or seven persons living in two or more separate households and that therefore the property fell within the prescribed description of a HMO under section 55(2)(a) of the 2004 Act.
36. Having found that the property was a HMO between June 2021 and 21 February 2023, we are satisfied beyond reasonable doubt that it was required to be licenced under section 61(1) of the 2004 Act. The Respondent did not suggest that any temporary exemption notice or interim or final management order was in force in relation to the property at the material time.

37. We are satisfied beyond reasonable doubt, having considered the evidence of both witnesses, that the property was not licenced under section 61(1) of the 2004 Act during the period June 2021 and 21 February 2023. The Respondent has not suggested that the property was so licenced.
38. We are satisfied beyond reasonable doubt that the Respondent was in the period June 2021 and 21 February 2023 a person having control of or managing the HMO. This is because:
- (i) we have accepted the unchallenged evidence of the First Applicant of the rent that he paid directly to the Respondent as set out above.
 - (ii) It was not suggested by the Respondent that the rent paid by the First Applicant of between £550 and £650 per calendar month is not the “rack-rent” of the property and we find in the circumstances that it was the rack rent.
 - (iii) We accept, having seen the First Applicant’s bank statements and having considered his unchallenged evidence on the point that the Respondent received the rack rent of the property from the First Applicant.
 - (iv) In any event, we have seen the title register for the property which confirms that the Respondent is the freehold owner.
 - (v) Further, the Respondent is named as the licence holder in the HMO licence granted on 12 October 2023.
39. We consider next whether the Respondent had a reasonable excuse for having control of or managing the property without a licence. The burden of proving the defence of reasonable excuse falls on the Respondent. The standard of proof is the balance of probabilities.
40. The Respondent’s case on this point is that he believed that the property did not require a licence. He relied on an extract from an email dated 13 December 2019 from an individual named Dawn Ryder stating “*thank you for the documents. I have uploaded these to your file and noted that the property is currently not a licensable HMO*”. The Respondent asserted that this email was sent to him by the Local Authority, however the source of the email (that is to say, the originating email address) is not apparent from the extract provided to us.

41. We have carefully considered the Respondent's evidence but find that the defence of reasonable excuse is not established for the following reasons.
42. First, we find that the Respondent has not established on the balance of probabilities that he believed that the property did not require a licence as a result of Ms Ryder's email. This is because:
- (i) this element of his evidence was not dealt with at all in his written statement.
 - (ii) he did not provide copies of the documents that he had sent to Ms Ryder in order to prompt her email, nor the email chain. The tribunal therefore cannot know (but the Respondent does know) on what basis Ms Ryder considered that the property was not a licensable HMO.
 - (iii) Under cross-examination, the Respondent said that he thought that so long as there were no more than four individuals occupying the property, no licence was required. However, we find for the reasons set out above that the Respondent must have known that there were between six and seven individuals occupying the property during the period July 2021 to 21 February 2023, including one person in the garage / garden room, and yet he did not apply for a HMO licence. On his own evidence, the Respondent knew that a HMO licence was required.
43. Secondly, the Respondent accepted in cross-examination that he was familiar with the HMO regulations and that he previously held a HMO licence for the property in the period 10 November 2015 to 9 November 2020 which permitted six people to reside in the property, with no occupation of the garage / garden building. We find that the Respondent is an experienced landlord of a HMO, having operated a HMO from the property since at least 2015. We also find that he knew that when he obtained the HMO licence in 2015 that a licence was required when the property was occupied by six people. In the circumstances we find that he ought reasonably to have known of the HMO licensing requirements; and that a HMO licence was required when the property, including the garden / garage room, was occupied by six or seven people.
44. In light of these findings, we are satisfied beyond reasonable doubt that the Respondent was during the period June 2021 and 21 February 2023 without reasonable excuse a person having control of an HMO which was required to be licensed under section 61(1) of the 2004 Act but which was not so licensed and that therefore he has committed an offence under section 72(1) of the 2004 Act.

45. We next consider whether the Respondent is guilty of an offence under section 1 of the 1977 Act.
46. The evidence of the First Applicant was that on 20 February 2023 the Respondent came into his room without knocking or asking for permission. This took place three to five times that day. The First Applicant started to record the conversations on his phone. He provided the recordings to the tribunal and the Respondent. The Respondent is not pictured in the recordings and all that can be heard are the voices of those speaking. The First Applicant's case is that the Respondent is recorded as saying:
- (i) Video 1: *"you're a fucking prick, you're a total fucking prick, learn to pay your fucking way"*.
 - (ii) Video 1:, when the Respondent is asked to leave the room by the First Applicant *"out of your room? My room...you're not renting this room, how are you renting this room, you're behind..."*
 - (iii) Video 2: *"don't you worry boy, sleep well...let me tell you one thing boy, you won't be here tomorrow, trust me"*.
 - (iv) Video 2, when asked if he will throw the First Applicant out: *"watch... I'll show you what I'll do"*.
 - (v) Video 3: *"you're going to fucking get it boy...you went in my fucking kitchen today"*.
 - (vi) Video 3: when asked to stop bursting into the room *"I'll do what the fuck I want, it ain't your room, you're not renting it, get it in your head, how are you renting it, you ain't fucking paid me for it"*.
 - (vii) Video 3: *"anytime you want to step outside, just say"* When asked by the First Applicant *"so now you want to fight?"* he responded *"any fucking time"*. When asked by the First Applicant *"so you're looking for trouble?"* he said *"yeah, it's my fucking house, yeah, I am looking for it"*.
 - (viii) Video 3: *"I want you out of this fucking room tomorrow, trust me, pack your shit and get the fuck out and believe me it will be in your best interests, trust me"*. When asked by the First Applicant to go threaten someone else he said *"I'm not threatening,*

it's a warning, you'll be lifted out of here boy, lifted out of here"

(ix) Video 4: *"don't talk to me about law, watch me, just watch"*

(x) Video 5 (which is a continuation of video 4): when asked to stop threatening the First Applicant, the Respondent says *"I'm not threatening you, just watch, you'll see tomorrow"*.

47. The First Applicant's evidence on this point was not challenged. It was put to the Respondent in cross-examination that the videos record conversations between him and the First Applicant. The Respondent said that he did not recognise the voice and that he could not agree that it was him speaking. Having had the benefit of hearing the parties give oral evidence and having considered the nature of the conversations between them as set out above, including the allegations of non-payment of rent and the use of the private kitchen, we are satisfied beyond reasonable doubt that the recordings are recordings of the Respondent and that he did say what has been set out above. We are also satisfied beyond reasonable doubt having considered the straightforward and unchallenged evidence of the First Applicant, that these conversations took place on 20 February 2023 and that the Respondent entered the First Applicant's room without permission on at least three occasions that day. The conversations took place during those occasions.
48. The First Applicant said that these conversations made him feel distressed and scared. He believed that when the Respondent said "sleep well" and "you'll be lifted out of here", he was threatening to remove him from the property by force. He thought that the Respondent would follow through with his threats. He had already been speaking with the Local Authority about his housing options, and he sent the videos referred to above to the Local Authority, namely to Ms Wooder, a homelessness prevention officer. Ms Wooder confirmed in an email dated 23 February 2023 that she was concerned for the safety of the First Applicant and she therefore arranged temporary accommodation for him. We accept the First Applicant's evidence on these issues, which was unchallenged and given in a clear, cogent and straightforward manner.
49. We are not satisfied beyond reasonable doubt that the Respondent has committed an offence under section 1(2) of the 1977 Act. In our judgment, section 1(2) of the 1977 Act is concerned with whether or not the Respondent's conduct has physically put or kept the First Applicant out of physical occupation of the property – that is to say, the physical act of eviction. It is not asserted that the Respondent in fact changed the locks or otherwise removed the First Applicant from the property.

50. We are not satisfied beyond reasonable doubt that the Respondent has committed an offence under section 1(3) of the 1977 Act. The elements of this offence require the Respondent to have actually intended to cause the First Applicant to give up his occupation of the property. It was not put to the Respondent during cross examination that this was his actual intention.
51. We are satisfied beyond reasonable doubt that the Respondent has committed an offence under section 1(3A) of the 1977 Act for the following reasons.
52. First, we are satisfied beyond reasonable doubt that the Respondent was the landlord of the First Applicant, because he was the freehold owner of the property and, but for the First Applicant's rights, was entitled to occupy Room 4.
53. Secondly, we are satisfied beyond reasonable doubt that in entering the First Applicant's room without permission on at least three separate occasions on 20 February 2023 and conducting himself as we have found above, the Respondent did acts that were likely to interfere with the First Applicant's peace and comfort. Having had the benefit of listening to the recordings, we are satisfied that the Respondent's tone during the course of the conversations was threatening and haranguing. We have found that the Respondent swore at the First Applicant and made repeated threats towards him. We are satisfied that, when the Respondent threatened that the First Applicant would be "*lifted out of here*" and that he would "*fucking get it*", these were threats of violence.
54. Thirdly, we are satisfied beyond reasonable doubt that the Respondent had reasonable cause to believe that his actions were likely to cause the First Applicant to give up his occupation of the property. In our judgment, the repeated assertions made by the Respondent over a very short period of time that the First Applicant no longer had any rights to stay in the room due to rent arrears, combined with the express requirement that he pack his belongings and leave before the next day, the threats made towards the First Applicant (including threats and warnings of violence) and the Respondent's avowed lack of concern about legal process, considered together, give rise to such reasonable cause.
55. It was not suggested by the Respondent that he had reasonable grounds for doing the acts referred to above nor that any other defence was available to him and we find that the Respondent did not have reasonable grounds for his actions nor any other defence to the alleged offending.

Are the Applicants entitled to an order under sections 41 and 43 of the 2016 Act?

56. We have found that the Respondent committed an offence under section 72(1) of the 2004 Act between June 2021 and 21 February 2023.
57. We have also found that the Respondent committed an offence under section 1(3A) of the 1977 Act on 20 February 2023.
58. The Respondent asserted that both Applicants occupied the property as lodgers and that therefore the property was not “let” to them. However, by section 56 of the 2016 Act, “letting” includes the grant of a licence and “let” is to be read accordingly.
59. As regards the Second Applicant, the Respondent’s case was that he did not have any agreement with the Second Applicant. He said that the Second Applicant was a friend of his son, Jack, and that the arrangements for the Second Applicant to occupy the property, including the financial arrangements regarding rent, were between the two of them. Accordingly, his case was that he was not liable for any rent repayment order, not being the Second Applicant’s immediate landlord.
60. The Second Applicant relied on his witness statement dated 7 July 2023. He also relied on an undated written statement of Jack Lee Thomas Hussain, the Respondent’s son. Neither the Second Applicant nor Mr Hussain attended the hearing to adopt their statements nor to be cross examined on their contents. The Tribunal’s directions of 16 October 2024 stated “*Witnesses should attend the hearing (by video if a video hearing has been arranged by the tribunal) in person to be cross-examined about their evidence, unless their statement has been agreed by the other party*”. The Respondent did not agree either witness statement.
61. However, though the Second Applicant paid rent his in cash in 2022 and 2023, he produced documentary evidence, namely his bank statements, showing regular monthly payments being made by him to the Respondent in 2021 marked “rent”. He also produced extracts from Whatsapp messages sent between the Second Applicant and the Respondent in May 2023 (around the time that the Second Applicant moved out of the garden/garage room) in which the Respondent says “*you pay to the end of May. That’s the rules*” and “*just remember how I gave you the room*”. In our judgment, this documentary evidence strongly suggests that the agreement under which the Second Applicant occupied the garden room was between the Second Applicant and the Respondent, not between the Second Applicant and the Respondent’s son.
62. Further, we found the Respondent to be a generally unsatisfactory witness. He repeatedly failed to give straightforward answers to questions. He was argumentative in his responses. He refused to accept that it was his voice that we heard in the recordings referred to above, despite the overwhelming evidence that it was. We formed the

impression that his aim in giving his evidence was not to assist the tribunal to resolve the matters in dispute between the parties but to paint the Applicants in as poor a light as possible by repeatedly referring to matters (such as inappropriate or unpleasant language used in text messages between the parties unrelated to the occupation of the property) that were irrelevant to the issues that the tribunal has to decide.

63. Considering the matter in the round, in light of his unsatisfactory oral evidence and the unchallenged documentary evidence, referred to above, we do not accept the Respondent's assertions that the occupation agreement for the garden / garage room was between the Second Applicant and the Respondent's son. We find that the Respondent was the immediate landlord of the Second Applicant.
64. The Application was made on 9 February 2024. Accordingly, the offences were committed in the period of 12 months ending with the day on which the application was made.
65. We are therefore satisfied that the Applicants are entitled to an order under section 41 of the 2016 Act and that it is appropriate, in light of the offending that we have found to be made out, to make such an order.

The amount of the RRO

66. The Applicants claim the following sum:
 - (i) The First Applicant claims a rent repayment order of £7100.00 for the period 1 February 2022 to 31 January 2023.
 - (ii) The Second Applicant claims a rent repayment order of £6100.00 for the period 1 February 2022 to 31 January 2023.

The First Applicant

67. Given that the period of the claim made by the First Applicant is for a period greater than 12 months ending with the date on which the Respondent committed the offence under section 1(3A) of the 1977 Act (being 20 February 2023) it must be the case that the Applicant's claim is for a RRO to be made on the ground that the Respondent has committed an offence under section 72(1) of the 2004 Act, as this offending was committed during the whole 12 month period of the claim. This would also appear to be the First Applicant's case advanced at paragraph 3c of the "statement of reasons" appended to the Applicants' statement of case.

68. We begin by ascertaining the whole rent paid by the First Applicant for the period 1 February 2022 to 31 January 2023. There was no challenge to the First Applicant's evidence that he paid rent of £7100.00 during this period and we find that this was the rent paid.
69. There was no suggestion that any relevant award of universal credit was paid to the First Applicant or the Respondent in respect of the rent under the tenancy during this period.
70. The Respondent provided no evidence of any payments made by him in respect of utilities that only benefitted the Applicant during the relevant period. Accordingly, we make no deductions in respect of utilities.
71. We consider next the seriousness of the offence which forms the ground upon which the RRO is made (i.e. the offence under section 72(1) of the 2004 Act). In our judgment, this offence is more serious than the offence of having control or management of an unlicensed house under section 95(1) of the 2004 Act because of the risk of overcrowding, sanitation and fire hazards involved with managing properties occupied by multiple households. However, it is in our judgment less serious than some of the other offences identified in section 40 of the 2016 Act, such as using violence to secure entry.
72. We also take into account the fact that the Local Authority later granted a HMO licence to the Respondent without the need to take any enforcement action against him and that this licence permitted seven persons from six households to occupy the property. However, we note and find that an inspection of the property on 24 January 2023 by the Local Authority identified several breaches by the Respondent of The Management of Houses in Multiple Occupation (England) Regulations 2006, including breaches of fire safety requirements.
73. In our judgment, these matters warrant a reduction in the amount of the RRO for the period claimed. Subject to the remaining factors referred to in section 44 of the 2016 Act (i.e. the conduct of the parties and the financial circumstances and offending history of the landlord) we find that the matters referred to above would warrant the making of a RRO of 60% of the rent paid for the relevant period.
74. However, the seriousness of the offending is not the only matter that we are required to take into account, and we now consider those remaining factors in coming to our final assessment of the amount of the RRO.
75. As to the conduct of the Respondent, though the RRO has not been made on the ground that the Respondent has committed an offence under section 1(3A) of the 1977 Act, we do not ignore our findings set out above in respect of the Respondent's actions on 20 February 2023. We consider that the threats made towards the First Applicant were particularly

unpleasant (and indeed, violent). We accept that the Respondent's actions were distressing for the First Applicant and that the fact that the threats were made repeatedly in his bedroom, which should have been a private space, increased that distress. We consider that the Respondent's lack of concern for legal process is worrying, especially in light of the fact that he is an experienced HMO landlord. In our judgment, these actions reflect extremely poorly on the Respondent's conduct.

76. We also accept the First Applicant's clear and consistent evidence that his room was extremely cold and draughty due to a defect in the balcony door, causing his room and his bedding to become damp. We do not accept the Respondent's assertion that the First Applicant would not allow the door to be repaired during his occupation of room 4. As set out above, the Respondent was not a satisfactory witness. The First Applicant's clear evidence was that he had repeatedly asked for the door to be fixed and would have welcomed the Respondent if he had asked for access to repair it. We prefer the First Applicant's straightforward evidence.
77. We also accept the First Applicant's evidence that the property generally was often extremely cold because the heating was rarely turned on. The First Applicant produced photographs of the property's thermostat reading between 12 – 15 degrees Celsius. His unchallenged oral evidence was that the heating was controlled by the Respondent via a mobile phone app. The Respondent's assertion that the First Applicant must have left the front door open before taking the photographs of the thermostat readings was in our judgment speculative.
78. We have also found that the first floor bathroom and kitchen in the property were for the Respondent's private use, meaning that other occupants all shared the ground floor kitchen and bathroom, despite the property being advertised as having two available kitchens and bathrooms. We accept the First Applicant's unchallenged evidence, given in a clear and straightforward manner, that the kitchen was poorly equipped with space to store food and with pots and pans to cook food.
79. In our judgment, the matters referred to above also reflect poorly on the Respondent's conduct.
80. The Respondent raised several issues about the First Applicant's conduct. He said, amongst other things, that:
 - (i) The First Applicant smoked cannabis at the property.
 - (ii) The First Applicant put his middle finger up when the video door bell on the front door was recording him.

- (iii) The First Applicant used unpleasant language in text messages sent to the Respondent during conversations between them about his workplace and other matters.

81. There was in our judgment no sufficient evidence of drug use by the First Applicant. The photos and videos produced by the Respondent do not in our judgment establish that the First Applicant was smoking cannabis. We do not find anything particularly concerning about the doorbell videos and the messages between the First Applicant and the Respondent were not related to the occupation of the property. We do not consider there to be any relevant issues relating to the First Applicant's conduct to be taken into account in our assessment of the amount of the RRO.
82. The Respondent provided no evidence of his financial circumstances and we are accordingly unable to consider these circumstances.
83. There is no suggestion that the Respondent has been convicted of an offence to which Chapter 4 of the 2016 Act applies.
84. Taking all these matters into account, and in particular the extremely poor conduct of the Respondent referred to above, we determine that the appropriate order in this case is for the repayment of 90% of the rent paid during the period claimed.
85. We therefore make an RRO in favour of the First Applicant of £6390.00.

The Second Applicant

86. There was no challenge to the Second Applicant's case that he paid rent of £6100.00 for the period 1 February 2022 to 31 January 2023. The challenge, as set out above, was that the rent was not paid to the Respondent but to his son, however we have not accepted the Respondent's assertions on that point.
87. There was no suggestion that any relevant award of universal credit was paid to the Second Applicant or the Respondent in respect of the rent under the tenancy during this period.
88. The Respondent provided no evidence of any payments made by him in respect of utilities that only benefitted the Second Applicant during the relevant period. Accordingly, we make no deductions in respect of utilities.
89. As with the First Applicant's application, we consider that the moderately serious nature of the offending, combined with the fact that

the Local Authority eventually granted a HMO licence to the Respondent, but taking account of the breaches of the management regulations referred to above, would warrant a reduction in the amount of the RRO for the period claimed. Subject to the remaining factors referred to in section 44 of the 2016 Act (i.e. the conduct of the parties and the financial circumstances and offending history of the landlord) we find that these matters would warrant the making of a RRO of 60% of the rent paid for the relevant period.

90. The Second Applicant was not the subject of the unlawful eviction referred to above and we do not consider this conduct as being relevant to his application for a RRO.
91. However, we accept that some of the factors identified by the First Applicant, namely the lack of sufficient heating in the property, the lack of access to both bathrooms and kitchens and the insufficiently equipped kitchen apply equally to the Second Applicant and reflect poorly on the Respondent's conduct.
92. The Respondent raised several issues about the Second Applicant's conduct. He said, amongst other things, that:
 - (i) The Second Applicant had behaved in a racist manner towards him;
 - (ii) The Second Applicant had punched the doorbell camera on the front door of the property;
 - (iii) The Second Applicant had planned an event at the property when the Respondent was away.
93. As with the First Applicant, we do not find anything particularly concerning about the doorbell videos, nor about the planned event. There was no evidence that the event took place nor that any damage was caused to the property. The Respondent's general allegations of racism were not developed further in his evidence or submissions.
94. We do not consider there to be any relevant issues relating to the Second Applicant's conduct to be taken into account in our assessment of the amount of the RRO.
95. The Respondent provided no evidence of his financial circumstances and we are accordingly unable to consider these circumstances.
96. There is no suggestion that the Respondent has been convicted of an offence to which Chapter 4 of the 2016 Act applies.

97. Taking all these matters into account, including the poor conduct of the Respondent referred to above, we determine that the appropriate order in this case is for the repayment of 70% of the rent paid during the period claimed.
98. We therefore make an RRO in favour of the Second Applicant of £4270.00.

Other matters

99. As the Applicants have been the successful parties, we order the Respondent to reimburse the Applicants for the tribunal fees paid in the sum of £440.00.

Name: Judge K Gray

Date: 14 April 2025

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).