FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CAM/34UF/HMK/2025/0614**
Property	**:**	**80 Obelisk Rise, Northampton, NN2 8QU**
Applicant	**:**	**Mr Jon Leon Love**
Representative	**:**	**Mr J Cairns, Justice for Tenants**
Respondent	**:**	**Ms Rosana Scott**
Representative	**:**	**No attendance or representation**
Type of application	**:**	**Application by tenant for rent repayment order** **Sections 40, 41, 43, & 44 of the Housing and Planning Act 2016**
Tribunal members	**:**	**First-tier Tribunal Judge K Neave** **Mr D Hunt**
Venue	**:**	**Remote hearing by CVP**
Date of decision	**:**	**5 February 2026**

DECISION

Decisions of the tribunal

(1) The tribunal is satisfied beyond reasonable doubt that the Respondent was during the period 16 January 2023 to 16 May 2024 a person having control of a House in Multiple Occupation which was required to be licensed under section 61(1) of the Housing Act 2004 but which was not so licensed and that therefore she has committed an offence under section 72(1) of the Housing Act 2004.

(2) The tribunal finds that the Applicant is entitled to a rent repayment order under section 41 of the Housing and Planning Act 2016 and that such an order ought to be made.

(3) The amount of the rent repayment order, determined under section 44 of the Housing and Planning Act 2016, is £3696.00 payable by the Respondent to the Applicant within 28 days of this decision.

(4) The Respondent shall pay the Applicant £341.00 in respect of the reimbursement of the tribunal fees paid by the Applicant within 28 days of this Decision.

The application

1. By an application received by the Tribunal on 9 May 2025 ("the Application") made under section 41 of the Housing and Planning Act 2016 ("the 2016 Act") the Applicant tenant sought a rent repayment order ("RRO") against the Respondent landlord.

2. The Applicant asserts 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. He accordingly asserts that the Respondent has committed an offence under section 72(1) of the 2004 Act.

3. The background to this application is set out in the Applicant's bundle of 168 pages and the Applicant's skeleton argument dated 30 January 2026. Mr Cairns confirmed at the outset of the hearing that these were the relevant documents, and we have considered them carefully. Notwithstanding the Tribunal's directions dated 26 September 2025, the Respondent has not provided a statement setting out her reasons for opposing the application, nor any evidence in support of her position, nor has she otherwise engaged with these proceedings.

The hearing

4. At the hearing, which took place on 4 February 2026, the Applicant was represented by Mr Cairns. The Respondent did not attend the hearing,

despite notice of the hearing date having been sent to her by email on 15 December 2025 and despite the Tribunal office sending her an email containing the hearing link on the morning of the hearing. Mr Cairns asked us to proceed with the hearing in the Respondent's absence under Rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. We were satisfied, in light of our comments immediately above, that the Respondent had been notified of the hearing or that reasonable steps had been taken to notify her of the hearing. We were also satisfied, having considered the Tribunal's overriding objective, that it was in the interests of justice to proceed with the hearing. Given the Respondent's failure to engage with these proceedings, it did not appear likely to us that an adjournment of this matter would serve any useful purpose and nor would delay be proportionate to the straightforward issues in dispute nor the resources of the Applicant and the Tribunal. Accordingly, we proceeded with the hearing in the Respondent's absence.

5. We heard oral evidence from the Applicant, who confirmed the content of his statement dated 9 October 2025, and answered supplementary questions asked by Mr Cairns and by the tribunal. Mr Cairns made submissions. We reserved our decision.

The background

6. The subject property is a six-bedroom, two-storey semi-detached house with a shared kitchen and bathrooms. 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.

7. The Applicant's case is that he was the tenant of the property from 16 January 2023 to 14 September 2025. During that time, he occupied three different rooms in the property, having been required to move twice when the local authority deemed his room unsuitable. He asserts that the property was occupied as a HMO, and that the Respondent required a HMO licence but did not have one in place. It is accepted that she applied for a licence on 30 May 2024.

The issues

8. Mr Cairns agreed at the outset of the hearing 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 to which Chapter 4 of the 2016 Act applies.

(ii) whether the Applicant is 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.

9. Having heard the evidence and submissions and considered all the documents provided, the tribunal makes determinations on these issues below. We focus in our decision on the main points that have been identified, though we have considered all the documents and the evidence and the issues raised and have taken these into account.

Legal framework

10. 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.

11. 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."

12. 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.

13. 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.

14. 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.

15. Section 72(4) and 72(5) of the 2004 Act provide a defence in proceedings for an offence under section 72(1) if the landlord has applied for a licence or a temporary exemption notice, or if he has a reasonable excuse for his actions.

16. 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.

17. 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*".

18. 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...."

19. 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?

20. 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.

21. We are satisfied beyond reasonable doubt, having considered the unchallenged evidence of the Applicant, which was given in a clear and straightforward manner and which we accept, that in the period 16 January 2023 to 16 May 2024, the property was laid out as he describes in his witness statement. There was a kitchen, living room and dining room on the ground floor of the property, and two bedrooms and a bathroom in the ground-floor converted garage. On the first floor were four further bedrooms, one with an en-suite bathroom, and a family bathroom. We are therefore satisfied that the property is a unit of living accommodation not consisting of a self-contained flat or flats.

22. We also accept the Applicant's straightforward and unchallenged evidence that between 16 January 2023 (when he moved in to the property) and February 2024, there were eight people living in the property (including the Applicant), forming seven households. In February 2024, the number of occupants increased to ten, forming eight households. In April 2024, one tenant (Mick Edmunds) moved out, leaving nine occupants and seven households. There were no further changes in occupancy of the household until after May 2024. There was no suggestion that any of these occupiers were occupying the property otherwise than as their only or main residence and we find that they were so occupying.

23. In light of our findings above, we are satisfied beyond reasonable doubt that at least two of the households who occupied the property in the period 16 January 2023 – 16 May 2024 shared the kitchen and bathroom facilities at the property.

24. We accept, having considered the tenancy agreement and bank statements provided by the Applicant, that rent was payable (and paid) by him in respect of his occupation of the property. We also accept, having considered the Applicant's unchallenged evidence, that rent was payable by the other occupiers of the property.

25. Having considered the Applicant's unchallenged evidence, we are satisfied beyond reasonable doubt and find that in the period 16 January 2023 to 16 May 2024 the property was occupied as a HMO.

26. We are also satisfied beyond reasonable doubt that the property 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.

27. Further, having considered the evidence of the Applicant and the email of 24 September 2024 from West Northamptonshire Council which states that the property had at the date of the email never been licensed as a HMO by the authority, we are satisfied beyond reasonable doubt that the property was not licenced under section 61(1) of the 2004 Act during the period 16 January 2023 to 16 May 2024. The Respondent has not suggested that the property was so licenced and indeed, her application of 30 May 2024 for a HMO licence to be granted rather suggests that no licence was in place in the relevant period.

28. We are satisfied beyond reasonable doubt that the Respondent was in the period 16 January 2023 to 16 May 2024 a person having control of or managing the HMO. This is because:

(i) we have accepted the unchallenged evidence of the 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 Applicant of between £420 and £510 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 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 Applicant.

(iv) In any event, we are satisfied that the Respondent is the registered freehold owner of the property under title number NN22139. Though title is registered in the name of Rosana Gomes, we are satisfied that this is the Respondent’s maiden name, not least because this is what she told a differently constituted FTT in other proceedings relating to this property under case reference CAM/34UF/HMK/2024/0001.

29. 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. The Respondent did not advance any excuse for her actions, and we find that the defence of reasonable excuse is accordingly not established.

30. In light of these findings, we are satisfied beyond reasonable doubt that the Respondent was from 16 January 2023 to at least 16 May 2024 a person having control of an HMO which was required to be licensed under section 61(1) of the 2004 Act and that she has committed an offence under section 72(1) of the 2004 Act by failing, without reasonable excuse, to obtain a licence for the property.

Is the Applicant entitled to a RRO under sections 41 and 43 of the 2016 Act?

31. We have found that the Respondent committed an offence under section 72(1) of the 2004 Act between 16 January 2023 to 16 May 2024.

32. The Applicant occupied the property under the terms of what is called a lodger’s agreement. Mr Cairns reminded us that, whether or not this agreement accurately reflects the legal nature of the agreement between the parties, given that the Applicant appears to have had exclusive possession of a room at the property in return for a rent, section 56 of

the 2016 Act provides that "letting" includes the grant of a licence and "let" is to be read accordingly.

33. The Application was made on 9 May 2025. Accordingly, the offence was committed in the period of 12 months ending with the day on which the application was made.

34. We are accordingly satisfied that the Applicant is entitled to an order under section 41 of the 2016 Act.

35. It is in our judgment appropriate, in light of the offending that we have found to be made out, to make a RRO.

The amount of the RRO

36. We accept the Applicant's unchallenged evidence that he paid a total of £5310.00 to the Respondent by way of rent in the period 16 May 2023 – 15 May 2024 and that no Universal Credit was paid to the Applicant or the Respondent during the relevant period.

37. The Applicant accepted that his rent was inclusive of gas, electricity, water, internet and council tax. We were not provided with any evidence whatsoever of the cost to the Respondent of providing these services to the household. Doing our best on the limited information available to us, and noting Mr Cairns' concession that there should be some deduction from the rent to reflect the cost of utilities, we estimate that the Respondent will have spent around £5500 on utilities and council tax in the relevant period.

38. Mr Cairns submitted in his skeleton argument that this sum should be divided between eight, as there were at least eight occupiers of the property in the relevant period. We divide £5500 between 8 to arrive at a figure of £687.50, which we round up to £690. We find that this sum represents payment for utilities and council tax that only benefited the Applicant during the relevant period. We therefore deduct £690 from the total rent paid of £5310.00 to come to a figure of £4620.00.

39. We consider next the seriousness of the offence that we have found to be made out. In our judgment, the offence is more serious than the offence of having control or management of an unlicenced 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 considerably less serious than some of the other offences identified in section 40 of the 2016 Act, such as using violence to secure entry, the eviction or harassment of occupiers and/or the failure to comply with an improvement notice or prohibition order. We note also that the local authority has not taken any

further action against the Respondent, despite their involvement with the property since at least 2023.

40. Nevertheless, we accept Mr Cairns' submission that though there is no suggestion that the Respondent has a large portfolio of investment properties in the UK, she is nevertheless a professional landlord, in the sense that she is in the business of letting multiple rooms at the property for profit. Those who are in the business of letting residential property in our judgment ought to take steps to ensure that they do so in a way that is compliant with the law. There was no evidence before us that the Respondent had taken any such steps. Information about HMO licensing schemes is widely available. This in our judgment adds to the seriousness of the offending, as does the length of time that the property was without a licence. Further, though the Respondent made an application for a HMO licence in May 2024, there was no evidence before us as to the outcome of that application. This is not therefore a situation in which we can be satisfied that a licence would have been granted if an application had been made when it should have been, and indeed, the Applicant's unchallenged evidence, which we accept, was that he had already been required to move out of two rooms at the property because the local authority deemed them unsuitable for occupation.

41. Taking all these matters into account, in our judgment the scale of seriousness of the offending in this case warrants some reduction in the amount of the RRO for the relevant period. 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 seriousness of the offending would warrant the making of a RRO of 60% of the rent paid for the relevant period. 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.

42. The Respondent does not raise any issues as tending to indicate poor conduct on the part of the Applicant. We accordingly make no adjustment to the RRO to reflect any such conduct.

43. As to the Respondent's conduct, we make the following findings of fact, having considered the Applicant's clear and straightforward evidence, which was unchallenged:

    (i) There was lax compliance with fire safety matters at the property. Though fire doors were installed, these doors did not have fire door seals in place, nor self-closing devices. There was no fire blanket in the kitchen. Smoke detectors had been removed or damaged on the first floor of the property.

(ii) In the winters of 2023 and 2024, the heating and hot water at the property was not functioning adequately and the property was very cold. The local authority provided the occupiers with portable electric heaters in October 2023 having felt how cold the property was when its officers inspected.

(iii) Linked to this is that it is clear from the photographs provided by the Applicant that there was a mould problem in the Applicant's bedroom, with black mould growth on the wall next to his bed, which caused his pillow to become mouldy. From June 2025 to September 2025, when the Applicant was moved to a different room in the property, he was not provided with curtains for his bedroom. The photographs also show, and we find, that the common areas of the property (the kitchen and living room) were not kept sufficiently clean.

(iv) A large amount of dog faeces was left by the Respondent's dog all over the rear garden in late 2023 and early 2024 and not cleaned up.

(v) The Applicant's tenancy deposit of £840 was not protected under any prescribed scheme. When the Applicant moved out of the property in September 2025, the Respondent failed to return his tenancy deposit to him, despite promising that she would do so. The reasons for her change of position have not been explained to the Applicant.

(vi) When the Applicant and other occupiers of the property informed the Respondent of their intention to seek RROs (having been informed of their right to do so by the local authority), instead of engaging with their concerns the Respondent served the Applicant with a notice seeking possession of his room. It was not appropriate to serve such a notice because the Applicant was not in arrears with his rent, no HMO licence was in place for the property, and the Applicant's tenancy deposit was not held in an authorised scheme.

(vii) At the same time, the Applicant found that his post was going missing. He later found some of his correspondence, including a new bank card, in the bin at the property. We are satisfied that the Respondent was responsible for these actions – the allegation was raised squarely in the Applicant's witness statement and has not been challenged by the Respondent, and, though multiple people were living in the property, the Applicant faced no similar problems before the Respondent moved in in around December 2024.

(viii) For like reasons, we are satisfied that the Respondent was responsible for installing a video camera in the kitchen of the property and that this interfered with the occupiers' rights to respect for their privacy in their home. We are satisfied that the Respondent was also responsible during this time for periodically turning off the internet access at the property, as well as the fridges/freezers and the heating, which the Applicant discovered had been turned off at the boiler. She also turned away a delivery intended for the Applicant, wrongly telling the driver that the Applicant did not live at the property.

(ix) We are satisfied that these actions (the service of a notice seeking possession, interfering with the Applicant's post and deliveries, installing a camera and repeatedly turning off the heating, internet and tenants' appliances) do not have a reasonable explanation, but were carried out in order to make life uncomfortable for the Applicant and the other occupiers of the property, such that they would voluntarily move out. This allegation was raised squarely in the Applicant's witness statement and the Respondent has not responded to it.

44. We have in mind the duties of property managers under The Management of Houses in Multiple Occupation (England) Regulations 2006. We accept that the issues with the condition of the property identified above amount to breaches of the requirements under the regulations to ensure all common parts of the HMO are kept in good and clean decorative repair and in a safe and working condition.

45. In our judgment, the Respondent's failure to ensure that the property was adequately heated in the winter and to ensure that fire safety requirements were complied with in what was on any analysis a crowded property, are serious matters that reflect very poorly on her conduct.

46. Likewise, we are extremely concerned about the Respondent's conduct towards the end of and at the end of the Applicant's occupation of the property. In our judgment, her actions in attempting to exert pressure upon the Applicant to leave once he began to assert his rights in relation to the RRO and the condition of the property more generally, and her failure to protect the Applicant's tenancy deposit and to return it to him

after the end of his occupation of the property are also serious matters that reflect very poorly on her conduct.

47. The Respondent provided no evidence of her financial circumstances and we are accordingly unable to consider these circumstances.

48. There is no suggestion that the Respondent has been convicted of an offence to which Chapter 4 of the 2016 Act applies.

49. 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 80% of the rent paid (less the deduction for utilities referred to above) during the period claimed.

50. We therefore make a RRO of <u>£3696.00</u>, being 80% of £4620.00.

51. We also order the Respondent to reimburse the Applicant for the tribunal fees that he paid in the sum of <u>£341.00</u> (being the application fee of £114.00 and the hearing fee of £227.00).

Name: Judge K Neave **Date:** 5 February 2026

<u>Rights of appeal</u>

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).