



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

**Case Reference** : **MAN/00BY/HMF/2024/0007**

**Property** : **Room 4, 90 Salisbury Road, Wavertree,  
Liverpool L15 1HW**

**Applicant** : **Mr Nathanael Christian Aldred**

**Respondents** : **Mr Brian Douglas Organ and Mrs Patricia  
Mary Organ**

**Type of Application** : **Rent Repayment Order – Housing and  
Planning Act 2016, s.41(1)**

**Tribunal Members** : **Judge R Anderson  
Mr John Elliott**

**Date of Hearing** : **4 December 2025**

**Date of Decision** : **6 February 2026**

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**DECISION**

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**DECISION**

**A. Mr Brian Douglas Organ and Mrs Patricia Mary Organ is ordered to repay to the applicant tenant, Mr Nathanael Christian Aldred rent in the sum of £423.99. in respect of the period 1 February 2023 to 31 May 2023 such sum to be paid within 28 days of the date of service of this decision.**

**B. In addition, Mr Brian Douglas Organ and Mrs Patricia Mary Organ must reimburse the hearing fee of £227 which Mr Nathanael Christian Aldred incurred in these proceedings. The total sum of £227 to be paid within 28 days of the date of service of this decision.**

## **REASONS**

### **Introduction**

1. On 1 February 2024, the Applicant applied for a rent repayment order (“RRO”) under s.41(1) Housing and Planning Act 2016 (“the 2016 Act”) in respect of 90 Salisbury Road, Room 4, Wavertree. He says the Respondents controlled or managed the property as an HMO without the requisite licence during his occupation from 1 February 2023 to 15 November 2023.
2. Case management directions were issued on 20 January 2025. The matter was listed to be determined at a video hearing in or after the week commencing 21 April 2025 and a hearing fee of £227 was payable by the applicant. The Directions required service of any tenancy terms, rent-payment evidence and licensing material.
3. Due to a lack of resource within the Tribunal the hearing was not listed until 4 December 2025.
4. On the 26 November 2025, the Respondents sought permission to adjourn the hearing which was refused. That application was renewed before the Tribunal but given that the Respondents had been given more than 14 days notice as required by the rules and were unable to show that they had taken any steps to obtain representation, the Tribunal determined that the hearing should go ahead.
5. The Tribunal considered the Applicant’s documents and the Respondents documents, including the RRO1, email correspondence referring to Liverpool City Council licensing status, and bank statements evidencing payments to “Brian Organ” during the tenancy and the Respondents accounts for the property.

### **The Law**

6. A rent repayment order is an order of the Tribunal requiring the landlord under a tenancy of housing in England to repay an amount of rent paid by a tenant. Such an order may only be made where the landlord has committed one of the offences specified in section 40(3) of the 2016 Act. A list of those offences was included in the Directions. The list includes the offence (under section 72(1) of the Housing Act 2004 (“the 2004 Act”)) of controlling or managing an unlicensed house in multiple occupation (“HMO”). The offence must have been committed by the landlord in relation to housing in England let by him.
7. Where the offence in question was committed on or after 6 April 2018, the relevant law concerning rent repayment orders is to be found in sections 40 – 52 of the 2016 Act. Section 41(2) provides that 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.

8. Section 43 of the 2016 Act provides that, if a tenant makes such an application, the Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that the landlord has committed one of the offences specified in section 40(3) (whether or not the landlord has been convicted).
9. Where the Tribunal decides to make a rent repayment order in favour of a tenant, it must go on to determine the amount of that order in accordance with section 44 of the 2016 Act. If the order is made on the ground that the landlord has committed the offence of controlling or managing an unlicensed HMO, the amount must relate to rent paid during a period, not exceeding 12 months, during which the landlord was committing that offence (section 44(2)). However, by virtue of section 44(3), the amount that the landlord may be required to repay must not exceed the rent paid in respect of the period in question, less any relevant award of universal credit or housing benefit paid (to any person) in respect of rent under the tenancy during that period.
10. In certain circumstances (which do not apply in this case) the amount of the rent repayment order must be the maximum amount found by applying the above principles. The Tribunal otherwise has a discretion as to the amount of the order. However, section 44(4) requires that the Tribunal must take account of the following factors when exercising that discretion:
  - 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 any of the specified offences.

#### HMOs

11. Section 254 of the Housing Act 2004 (“the 2004 Act”) sets out the meaning of “house in multiple occupation”.
12. Section 254 (1) states that a building or a part of a building is a “house in multiple occupation” in five different instances which includes where it meets the conditions in s 254 (2) (“the standard test”). A building or 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.
13. Not all HMOs have to be licensed. Section 55 (2) (a) of the 2004 Act specifies that mandatory HMO licensing applies to those HMOs which fall within “any prescribed description of HMO” (unless the HMO has a temporary exemption notice or is subject to an interim or final management order). The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 (“the 2018 Prescribed Description Order) effective from 1st October 2018 sets out those HMOs to which mandatory licensing applies. Regulation 4 of the 2018 Prescribed Description Order provides that an HMO is of the prescribed description for the purposes of section 55(2)(a) if it is occupied by five or more persons; is occupied by persons living in two or more separate households; and meets either:
- i. the standard test – section 254(2) of the 2004 Act;
  - ii. the self-contained flat test under section 254(3) of the 2004 Act but is not a purpose built flat situated in a block comprising three or more self-contained flats; or
  - iii. the converted building test – section 254(4) of the 2004 Act.
14. Under section 56 of the 2004 Act, a local housing authority may designate that their district or an area in their district as subject to additional licensing in relation to a description of HMOs.

## **Evidence**

### Tenancy and occupation

15. The Applicant occupied Room 4 at 90 Salisbury Road from 1 February 2023 to 15 November 2023. A copy of the tenancy agreement dated 5 January 2023 was contained in the Applicant and Respondent’s bundles. The key terms were that it was for a period of 9 months at a monthly rent of £390 “inclusive of bills, broad band and council tax”.
16. It was conceded by the respondents that the property is a 5-bedroom shared house and that when the Applicant moved into the Property on 1 February 2023, he was the fifth occupant, this remained the case until the end of May 2023 when one of the other tenants moved out. This was not disputed by the Applicant.
17. It was accepted that after the 31 May 2023, the Applicant attempted to let the 5<sup>th</sup> bedroom on the Respondents behalf on an “Air B&B style” basis and that one tenant agreed to stay for and paid to stay for a month but it appeared that she had only stayed for a few days.

### HMO licence

18. The Applicant produced an email thread noting that Liverpool City Council had no HMO licence in place for 90 Salisbury Road for the period the Applicant lived

there (confirmation dated 31 January 2024; no pending application was identified). This was not disputed by the Respondent, although, the Respondents asserted that he they had entered into correspondence with Liverpool City Council about whether a license was required.

### **Has an offence been committed?**

19. We are satisfied beyond reasonable doubt that the Respondents controlled or managed an unlicensed HMO at 90 Salisbury Road throughout 1 February 2023 to 31 May 2023 (“the Offence Period”):

- the premises satisfied the HMO standard test;
- five or more occupiers in at least two households triggered mandatory licensing; and
- there was no HMO licence (or pending application) for the address during the period.

20. After the 31 May 2023 we were not satisfied that there was sufficient evidence of a fifth occupier occupying the Property as their primary residence for the Tribunal to be able to find beyond reasonable doubt that an offence was being committed.

21. The Applicant’s RRO application on 1 February 2024 was within 12 months of the end of the Offence Period; the Tribunal therefore has jurisdiction.

### **Whether to make a Rent Repayment Order**

22. In line with the objectives of the legislation outlined above, namely deterrence, depriving landlords of proceeds of unlawful letting, resolving issues arising where rent is withheld), it is appropriate to make an RRO in this case.

### **Amount of the Order**

23. The recoverable sum is rent paid during the Offence Period and in respect of that period (maximum 12 months), less any Housing Benefit or Universal Credit (s.44(2)–(3) 2016 Act.) Payments made outside the Offence Period are excluded, even if they were in respect of it. The Tribunal should not take into account an amount of rent which is in respect of bills or council tax.

### **Evidence of payments**

24. Both parties’ bundles show the following outgoing Payments to “Brian Organ” from the Applicant during the Offence Period:

- 2 February 2023      £390.00
- 1 March 2023        £390.00
- 2 May 2023         £390.00

**Utilities etc.**

25. It was agreed that was a term of the Applicant's tenancy that the rent paid by the Applicant included utilities, council tax and internet provision. The Respondent's bundle contained the costs of these items for the whole property for the year up April 2024, this only incorporated one month of the Offence Period but the Tribunal were satisfied that they were sufficient evidence of the likely costs during the Offence Period. The costs were as follows:

- Council Tax    £1494,77
- Water            £428.81
- Electricity     £2272.25 (£2832.25 less rebate of £360)
- Internet        £360.00

26. This gives a total cost of £4555.83 which should be divided by 5 to take account of the 5 rooms in order to calculate the applicant's contribution on an annual basis and then divided by 12 to give a monthly calculation. This gives a monthly contribution from the Applicant to utilities, council tax and the internet of £73.93. If this figure is taken from the monthly rent of £390 it amounts £314.07 per month.

27. No Housing Benefit or universal credit appears to have been paid by the Applicant.

28. Accordingly, the maximum repayment order could be £942.21.

**Discretion (s.44(4))**

21. The property was run as an HMO without a licence throughout the Offence Period and there is no evidence of rectification or licence application during the period. Those matters weigh against the Respondents. In the Respondents favour is that they had corresponded with Liverpool City Council about a license and received equivocal advice.

22. There is no material before us enabling criticism of the Applicant's conduct.

23. The respondent did not provide any evidence in respect of their current financial circumstances.

24. The Tribunal are not aware of any relevant convictions.

25. The Tribunal then considered the factors it considered relevant including the overall seriousness of the offence. The failure to obtain a license is at the lower end of the scale of offences for which rent repayment orders can be made and in this instance the Offence Period was for a relatively short period of time. Additionally, the Applicant did

not give evidence of any poor conditions or other detriment that he suffered as a result of the failure to obtain a license and indeed throughout the tenancy there was respectful and co-operative correspondence between the parties.

26. Taking all those factors into account the Tribunal determined that the Respondent should pay 45% of the maximum amount available totalling £423.99.

### **Tribunal Fees**

26. Under rule 13(2)–(3), we order the Respondents to reimburse the Applicant’s fees. The Directions record a hearing fee of £227 which should be paid by the Respondents, it appears in this case no application fee was paid.

### **Judge Anderson 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 should be made on Form RP PTA available at:

<https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking. If the

Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).