



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

Case Reference	:	LON/00AW/HMF/2024/0259
Property	:	Flat 6 Ledbury, Portobello Court, Westbourne Grove, London W11 2DH
Applicants	:	Thomas Spessot (1) Dairis Are (2) Hyori Suh (3)
Representative	:	Ms Fleur Donnelly-Jackson Justice for Tenants
Respondents	:	Julian and Co Managing Partners Limited (1) ~~Rizia Begum Miah (2)~~
Representative	:	Gyula Ruzicska, director for the First Respondent by written representation only the Second Respondent did not appear and was not represented.
Type of Application	:	Application for a rent repayment order by tenant - Housing and Planning Act 2016
Tribunal Member	:	Mr Charles Norman FRICS Valuer Chairman Mr Stephen Mason FRICS
Venue/Date of Hearing	:	10 Alfred Place, London WC1E 7LR 12 December 2025
Date of Decision	:	15 March 2026

DECISION

Decisions of the Tribunal

1. The Tribunal makes a Rent Repayment Order in favour of the Applicants as follows:
 - i. First Applicant (Mr Spessot) £6,956
 - ii. Second Applicant (Dairis Aye) £5,271
 - iii. Third Applicant (Ms Suh) £1,376
2. The Second Respondent is removed as a party.
3. The Respondent shall re-imburse the First Applicant his application and hearing fees paid of £330 within 28 days.

Reasons

The Application

4. On 17 February 2025 the Applicants applied for a rent repayment order (RRO) under section 41 of the Housing and Planning Act 2016 (“the 2016 Act”). They were each former tenants of Flat 6 Ledbury, Portobello Court, Westbourne Grove, London W11 2DH.
5. The basis of the application was that the property, had been let as an unlicensed HMO contrary to section 72(1) of the Housing Act 2004. The rented property was situated within an additional licensing area as designated by Royal Borough of Kensington and Chelsea. The additional licensing scheme came into force on 1st June 2023 and will cease to operate on 31st May 2028. The scheme applies to all HMOs defined by section 254 of the 2004 Act that are occupied by 3 or more persons comprising of 2 or more households, subject to certain exceptions that are not relevant. The relevant breach occurred in the period 1 June 2023 to 14 April 2024. The property was licensed on 17 September 2024.
6. The amounts of RRO sought were as follows: Thomas Spessot £10,303.22 for the period 1 June 2024 to 14 April 2024; Dairis Aye: 27 September 2023 to 14 April 2024, £7,761.44. Hyori Suh £2,066.00 for the period 19 January 2024 to 14 April 2024. Copies of tenancy agreements and proof of payment was provided. The First Respondent was named as licensor on the ASTs. The Second Respondent was registered as long leaseholder of the property at HM Land Registry. Each of the former tenants had provided notices of representation in favour of Justice for Tenants.

Previous Decision

7. On 5 June 2025 the Tribunal handed down another decision following a RRO application at the property. The Applicant was Mohamed Maslough and the sole respondent the First Respondent in the present case. The claim was for the period February 2023 to 15 May 2024. The Tribunal recorded that the respondent had admitted the offence of failing to licence an HMO contrary to s 72(1) of the Act. The Tribunal found that the rent was inclusive of £35 per month for gas and electricity and £26.50 per month for council tax.

Directions

8. On 27 June 2025 (as amended on 18 August 2025), the Tribunal gave Directions, pursuant to which the Applicants have served a Bundle of 154 pages and the Respondent 9 pages together with the previous decision. A face to face hearing was directed.

The Hearing

9. The hearing took place at 10 Alfred Place on 7 October 2025. Ms Fleur Donnelly-Jackson represented the tenants. Neither Respondent appeared although the Tribunal considered a witness statement submitted by Mr Ruzicka. Mr Spessot attended the hearing, but neither Dairis Are or Hyori Suh did so.

The First Applicant's Case (Mr Spessot)

10. Ms Fleur Donnelly-Jackson submitted that the property was occupied by 4 tenants and with a lot of churn. Additional licencing applied from 1 June 2023 and applied to 3 or more persons living in 2 or more households. The offence was one of strict liability. There was no evidence of any reasonable excuse. Mr Spessot was called and gave evidence. He had given a witness statement verified by a statement of truth. His evidence was that the property comprised 5 rooms used as bedrooms including the living room and storage room. Facilities were shared. He displayed some knowledge of other tenants as to their occupations and interests. One was a boxing coach, one unemployed, one a waitress. His evidence was that the property was the main residence of himself and the other residents. The tenants paid for cleaning costs of £13 per month each. Utilities were paid by the landlord and included in the rent. Safety certificates had not been given to tenants when they signed their agreements. He was not aware of gas safety or electrical checks being done. There was a smoke detector. The landlord was responsive to repair requests. Mr Spessot had received no housing benefit or universal credit.

11. Ms Fleur Donnelly-Jackson submitted that the only landlord utilities were the for gas and electricity for £35 per month. Council tax was not a utility but a tax. It should not therefore be deducted when assessing the amount of an RRO.
12. In terms of culpability, Ms Fleur Donnelly Jackson submitted that culpability was particularly high because there were 5 tenants, the length of the offence, that the licence agreements contained misrepresentations (having sham elements), there was no gas certificate, electrical certificate or EPC given. The purpose of an RRO was punishment. Julian and Co manage seven or so other HMOs and are a professional landlord. In the previous case the Applicant was held to have been smoking in bed [which reduced the RRO]. As to the financial circumstances of the Respondent there was no overwhelming evidence that the landlord could not pay. The company had not yet closed. The previous decision was a starting point. The Applicant should receive their hearing and application fee from the Respondents.

The Second and Third Applicants' Cases

13. The second Applicant (Dairis Are) did not serve a witness statement, but evidence of rent payments was provided. The Third applicant (Ms Suh) submitted a short witness statement verified by a statement of truth. As the Tribunal found that the Respondent admitted the offence (see below) it is unnecessary to summarise that evidence.

The First Respondent's Case

14. Mr Gyula Ruzicska witness statement, which was verified by statement truth, may be summarised as follows. The previous tribunal decision applied a 20% reduction to reflect mitigating circumstances. That decision should be taken into account in the present application. The company is a rent collecting property managing intermediary. The bulk of rents were passed to the property owner. The company is under significant financial pressure. Its total liabilities are in excess of £800,000. It has a negative cash position with overdraft facilities and directors are assessing closure. The company cannot pay a lump sum award and would only be able to meet an order through small monthly instalments. The company cooperated when licensing issues came to light. It did not intend to avoid compliance and has acted promptly to bring its management arrangements to an end. Accounts for the year ending 31 March 2025 were provided. These show a loss of £164,933. Although the company's reported assets are shown as £1.19 million some had been recognised as bad debts. The company's cash position was £9,344 compared with liabilities of £1.3m. There is balance sheet insolvency.

The Second respondent's case

15. The second Respondent did not respond to the application.

The Correct Respondent

16. At the hearing, the Tribunal referred the Applicant to the doctrine of tenancy by estoppel. The effect of this is that a person who represents themselves as being a landlord to a tenant is not allowed to deny it as against that tenant. This applied even if the purported landlord is not entitled to act as landlord. Further in *Jepson v Rakusen* [2023] UKSC 9 the Supreme Court held that only the immediate landlord could be liable for an RRO. According the First Respondent, alone, is the correct Respondent. The Tribunal therefore directs that the Second Respondent be removed as a Respondent.

The Law

17. Section 61 of The Housing Act 2004 Act provides for every prescribed HMO to be licensed. HMOs are defined by section 254 which includes a number of “tests”. Section 254(2) provides that 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.”

18. Separately, section 56 empowers a local housing authority (“LHA”) to designate an area to be subject to additional licencing. On the evidence, on 1 June 2023 the Local Housing Authority introduced additional licencing of premises consisting of 2 or more non-related households with 3 or more people sharing facilities such as a bathroom or a kitchen.
19. Section 263 provides:

“(1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) 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.

(2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises. [...]
20. Section 72 specifies a number of offences in relation to the licencing of HMOs. The material parts provide:

“(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.

[...]

(5) In proceedings for an offence ...it is a defence that he had a reasonable excuse ...”
21. Section 40(3) of the 2016 provides that the offence of control or management of unlicensed HMO contrary to section 72(1) of the 2004 Act is an offence that gives rise to a potential rent repayment order.
22. Section 41 provides that 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. The offence under s 72(1) must be committed in the period of 12 months ending with the day on which the application is made.
23. Section 43 provides that 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).
24. By section 44(2) the amount must relate to rent paid during the period when the landlord was committing the offence, not exceeding 12 months. Section 44(3) provides that the amount must not exceed the rent, less any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.

25. Section 44(4) provides:

“(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.”

26. In *Acheapong v Roman* [2022] UKUT 239 (LC) (cited by the Respondent), Upper Tribunal Judge Elizabeth Cooke gave guidance. The Judge stated:

“20. The following approach will ensure consistency with the authorities:

a. Ascertain the whole of the rent for the relevant period;

b. [...]

c. Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent [...] is a fair reflection of the seriousness of this offence? That figure is then 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:

d. 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).

21. I would add that step (c) above is part of what is required under section 44(4)(a). It is an assessment of the conduct of the landlord specifically in the context of the offence itself; how badly has this landlord behaved in committing the offence? I have set it out as a separate step because it is the matter that has most frequently been overlooked.”

27. These guidelines have recently been affirmed by the Deputy President of the Upper Tribunal (Lands Chamber), in *Newell v Abbott* [2024] UKUT 181 (LC). This included a review of *Hallett v Parker* [2022] UKUT 165 (LC) (as referred to by the Respondent). The Deputy President distinguished between the professional “rogue” landlord, against whom a RRO should be made at the higher end of the scale (80%) and the landlord

whose failure was to take sufficient steps to inform himself of the regulatory requirements (25%).

Discussion and Findings

The Offence of control or management of an unlicensed HMO

28. The Tribunal found Mr Spessot to be a reliable witness. It finds that at least 4 persons occupied the property as their main or only home, that they were unrelated and formed separate households with shared use of facilities.
29. The Tribunal also finds that the Respondent has admitted the offence.
30. For the above reasons, the Tribunal is satisfied beyond reasonable doubt that the Respondent is guilty of an offence under section 72(1) of the 2004 Act of having control of or managing an HMO which is required to be licensed under but was not so licensed. It is sufficient for the Tribunal to find that the offence was committed, at least, during the 12 months prior to 14 April 2024.

The Assessment of the RRO

31. The Applicants seek RROs in the sum of 100% of the qualifying rent for the periods started above: Dairis Are: 27 September 2023 to 14 April 2024 £7,761.44; Hyori Suh £2066.00 for the period 19 January 2024 to 14 April 2024; Thomas Spessot £10,303.22 for the period 1 June 2024 to 14 April 2024.
32. The Tribunal must first determine the whole of the rents of the relevant periods. The Tribunal is satisfied that an offence was committed throughout these periods.
33. The Tribunal must then consider the seriousness of the offence. The Upper Tribunal has held that licencing offences are less serious than other offences giving rise to RROs.
34. The Tribunal must then have regard to the following:

(a) The conduct of the landlord.

The Tribunal has found the following mitigating factors: (i) the subsequent obtaining of a licence.

Aggravating factors are (i) the lack of provision of gas safety and electrical certificates the how to rent guide and failure to provide the EPC. The

previous RRO is not an aggravating factor because it covers a similar time period.

(b) The conduct of the tenant.

There is no suggestion that the tenants conducted themselves improperly.

(c) The financial circumstances of the landlord. The witness statement of Mr Ruzicska and the accounts for year ending 25 March 2025 show that the Respondent has made a large loss and is in serious financial difficulty.

(d) Whether the landlord has at any time been convicted of an offence to which this Chapter applies. There is no relevant conviction.

35. In addition, the Tribunal finds that utilities should be deducted but should be limited to the gas and electricity. It accepts the submission that council tax is not a utility. The deduction is therefore £35 per month per tenant.
36. Taking all relevant factors into account, the Tribunal makes a RRO in the sum of 70% of the relevant rent.
37. Although neither the second nor third Applicant attended the hearing in view of the Respondent's admission and the evidence as a whole the Tribunal finds that it should make a RRO in respect of all Applicants.
38. For the First Applicant, (Mr Spessot) the amount of the RRO is therefore £10,303.32 less 318 days at £35 per month 0.87 year or £231. The net amount is therefore £9,937. Therefore 70% is £6,956.
39. For the second Applicant (Dairis Aye) the amount of the RRO is therefore £7,761.44 less 201 days at £35 per month 0.55 year or £366. The net amount is therefore £7,761. Therefore 70% is £5,271.
40. For the third Applicant (Ms Suh) the amount of the RRO is therefore £2066 less 87 days at £35 per month 0.24 year or £100. The net amount is therefore £1,966. Therefore 70% is £1,376.
41. The Tribunal also determines that the Respondent must reimburse the First Applicant their application and hearing fees (£330) within 28 days.

Mr Charles Norman FRICS

Date : 15 March 2026

RIGHTS OF APPEAL

1. 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.

2. 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.
3. 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.
4. 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.