



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

Case reference : LON/00AL/HMG/2025/0653.

Property : Flat 401, Fiske Villa, 27 West Parkside,
London SE10 0ZH.

Applicant : Atiya Ahmed.

Representative :

Respondent : Dylan Mistry

Representative :

Type of application : Application for a rent repayment
order by tenant

Tribunal : Deputy District Judge Samuel sitting as a
Tribunal Judge
Steve Wheeler MCIEH, CEnvH

Date of Decision : 19 April 2026

DECISION

Decision

1. The Tribunal declines to make a rent repayment order

Background

2. The Applicant seeks a rent repayment order in relation to Flat 401, Fiske Villa, 27 West Parkside, London SE10 0ZH where she lived from 4 November 2023 to 31 December 2024.

3. The Respondent is a long leaseholder of the property whose interest was registered on 17 December 2020.
4. The Applicant entered into an assured shorthold tenancy dated 16 October 2023, which began on 4 November 2023 for a fixed period until 4 November 2025. The rent was £2,200 a month and a security deposit of £2,750 was taken. There was provision for a break clause on 21 May 2025.
5. The tenancy provides that the landlord was responsible for all utilities excluding heating, which was billed to the tenant monthly by the landlord.
6. At clause 10 of the tenancy agreement there was provision for a payment of £50 for each day that a payment of rent was late and was to be billed in the subsequent month.

The application

7. The application was made on 15 July 2025 in respect of events in December 2024 when the Applicant claims she was unlawfully evicted.
8. The applicant seeks a rent repayment order for the 12 months prior to the eviction.
9. Directions were made on 28 November 2025 which the Applicant complied with.
10. The Respondent has taken no part in the proceedings.
11. The Applicant relies on section 40(3) of the Housing and Planning Act 2016 and in particular the offences under sections 1(2), 1(3) and 1(3A) of the Protection from Eviction Act 1977.
12. There is no evidence that the Respondent has been prosecuted in relation to the events leading up to the Applicant leaving the property.
13. The Applicant provided a bundle of 91 pages along with a skeleton argument and land registry documentation.

The law

14. Sections 1(2), (3) and (3A) of the Protection from Eviction 1977 state:
- 15.

1. Unlawful eviction and harassment of occupier.

...

(2) 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.

(3) 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]¹ 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.

(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.

(3B) A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.

16. Under section 1(2) and 1(3) above any person may commit the offence of unlawful eviction but there must be proof of actual participation by the person being prosecuted, which can be as a co-conspirator, or as part of a joint enterprise or by incitement. [*R v Qureshi* [2012] 1 WLR 694]

17. Section 1(3A) requires the acts done to be either by the landlord or their agent but there is no basis for holding a landlord vicariously liable for the actions of others. [*R v Qureshi* [2012] 1 WLR 694]

18. The ‘acts’ under section 1(3) and 1(3A) can be a single act. [*Wu Chelmsford City Council* [2023] HLR 32]

The evidence

19. The Tribunal heard from the Applicant who gave her evidence straightforwardly and in a way that assisted the Tribunal.

20. She explained that when she moved into the property, she paid a deposit of £2,750. She had exhibited evidence that the deposit was not protected and orally confirmed that she had never received a deposit certificate or any prescribed information beyond that in the tenancy agreement. She said that the Respondent had not returned the deposit.
21. She also told the Tribunal that she had not received gas safety certificates, the How to Rent booklet or an energy performance certificate.
22. She explained that in August 2024 she was aware that she was going to face financial difficulties and discussed this with the Respondent. By October 2024 she knew that she was not going to be able to afford £2,200 in December. She was actively discussing with the Respondent whether she could find a substitute tenant as she was liable under the tenancy agreement to continue to pay rent if she left. She needed documentation from the Respondent to place adverts but the Respondent was unwilling to provide these.
23. She also expressed concern for the Respondent as she was aware he had a mortgage to pay on the property.
24. On 4 December 2024 she emailed the Respondent to say she could not pay the rent due and that she would leave by 9 December 2024 and pay the arrears through a payment plan. The Respondent replied that he was referring the matter to his lawyers.
25. On 5 December 2024, she received a letter from the Respondent's solicitors stating that:
- a. if she did not pay the rent promptly, the Respondent may issue a section 8 notice.
 - b. it explained to her that were she to leave by 9 December 2024 as she had suggested, she would still be liable for the rent under Clause 43 of the tenancy agreement until the notice period expires or the property is re-let.
 - c. it offered to discuss a repayment plan and early termination, if the arrears were paid.
26. On 17 December 2024 she received a section 8 notice under Grounds 10 and 11 of Schedule 2 of the Housing Act 1988.
27. It is the cover email accompanying the section 8 notice that the Applicant claims led to her unlawful eviction.
28. It stated:

*The notice provides you with **14 days** to resolve the matter by paying all outstanding arrears and charges **or** vacating the property*

If you choose to vacate the property within 14 days you will also remain liable for any heating charges incurred for the period of your occupation, up to the date of your departure....

Failure to address these matters within the specified timeframe will result in legal proceedings being initiated to seek possession of the property and recover all outstanding amounts

29. As a result of this email the Applicant felt she had to leave as she could not afford to pay the arrears. On 27 December 2024 she emailed the respondent to tell him she was leaving by 31 December 2024 and would leave the keys in the letter box.
30. The Applicant informed us that she has not paid the outstanding rent from 4 December 2024 but neither has she received her deposit back or even some of it.

Reasons

31. The Tribunal has to be satisfied beyond a reasonable doubt that the offences under the Protection from Eviction Act 1977 have been made out [section 43(1) Housing and Planning Act 2016].
32. The act complained of that led to the Applicant leaving is claimed to be the covering email from the solicitor. Clearly this was not the act of the Respondent so the Tribunal is not satisfied that section 1(2) and section 1(3) of the Protection from Eviction Act 1977 are made out in this case.
33. There is no evidence that this was a criminal enterprise with the solicitor or any incitement by the Respondent to act in a criminal manner. The evidence appears to be the Respondent instructed solicitors to deal with the non-payment of rent.
34. Further the taking of legal action to secure possession by serving a section 8 notice cannot be an attempt to unlawfully deprive a tenant of their home under section 1(2) of the Act.
35. Yet further the service of a section 8 notice, while an interference with the occupiers' peace and comfort, is not evidence of an intention that the occupier give up possession there and then or that they do not defend any possession action.
36. The Tribunal is prepared to accept the Solicitor acting for the Respondent was acting as an agent of the Respondent and that potentially their conduct would come within section 1(3A) of the Protection from Eviction Act 1977.
37. Seeking to evict a tenant is clearly an act likely to interfere with the peace and comfort of a tenant.
38. The email provides three options:

- a. Pay the arrears in 14 days or
- b. Voluntarily leave or
- c. Face court action

39. The email refers to court action to seek possession as one of the options they may take.

40. Given that the Applicant had been trying to find an alternative tenant to escape her liability, it might be argued that they knew or had reasonable cause to believe that she would choose to voluntarily leave and not choose to defend any court proceedings.

41. However, the Applicant had informed the Respondent that she was facing financial difficulty and was unable to pay the rent in full. In the circumstances the Respondent had reasonable grounds for pursuing vacant possession and or payment such that the sending of the email and section 8 notice were reasonable steps to take and the defence in section 1(3B) applies.

42. In her witness statement the Applicant states that on receipt of the email of 17 December 2024:

I understood this to mean I was legally required to leave if I did not pay. I was not informed that the landlord needed a court possession order.

I left the property because I believed I had no lawful right to remain. I would not have vacated the property but for the Respondent's communication.

43. The Applicant may have misunderstood the email but it was a cover email for a section 8 notice. That notice is clearly headed as *a notice of intention to bring proceedings for possession of a property...* It also states that possession proceedings would not be begun until 2 January 2025.

44. The Applicant may not have been told that the landlord needed a court order but the email does not say she was legally required to leave or that she had no lawful right to remain.

45. The Tribunal when considering the notice and the cover email find that this was an action that the Respondent had reasonable grounds for doing.

46. For the foregoing reasons the Tribunal is not satisfied beyond a reasonable doubt that an offence under section 1 of the Protection from Eviction Act 1977 has been committed by the Respondent and the Tribunal dismisses the Applicant's application.

Name: Judge Samuel

Date: 19 April 2026

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).