



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

Case reference : **CAM/33UG/HMK/2025/0611
CAM/33UG/HMK/2025/0612**

Property : **35 Wycliffe Road, Norwich, NR4 7DU**

Applicant : **(1) Jiahong Li
(2) Ka Pek Lee**

Representative : **Both in person**

Respondent : **(1) Mrs Man Li
(2) Dr Ningwei Sun**

Representative : **Mr Smith, lay representative for the
First Respondent
The Second Respondent 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 : **First-tier Tribunal Judge K Neave
Tribunal Member J Francis QPM**

Venue : **Remote hearing by CVP**

Date of decision : **26 February 2026**

DECISION

Decisions of the tribunal

- (1) The Tribunal is satisfied beyond reasonable doubt that the Respondents were from 7 October 2023 to 25 November 2023 without reasonable excuse persons having control of or managing a HMO which was required to be licensed under section 61(1) of the 2004 Act and which was not so licensed and that accordingly they have committed an offence under section 72(1) of the 2004 Act in the period 7 October 2023 to 25 November 2023.
- (2) The Tribunal dismisses both Applications for rent repayment orders, no offence having been committed during the period of 12 months ending with the date of the Applications.

The application

1. By two applications dated 16 June 2025 (“the Applications”) made under section 41 of the Housing and Planning Act 2016 (“the 2016 Act”) the Applicant tenants sought rent repayment orders (“RROs”) against the Respondent landlords. By directions given on 10 September 2025, Judge Hardman consolidated both Applications and directed both to be heard at the same time and by the same panel.
2. The Applicants assert that the Respondents had control of or were 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. They accordingly assert that the Respondents have committed an offence under section 72(1) of the 2004 Act.
3. The background to the Applications is set out in the Applicants’ bundles of 56 and 93 pages and the Respondents’ response dated 15 October 2025. The parties confirmed at the outset of the hearing that these were the relevant documents and we have considered them carefully.

The hearing

4. At the hearing, which took place on 12 February 2026 by CVP, the Applicants attended in person, as did the Second Respondent. The First Respondent was represented by her husband, Mr Smith.
5. We heard oral evidence from the Applicants, who confirmed the content of their witness statements, both dated 1 October 2025. They were cross-examined by Dr Sun and Mr Smith. We also heard oral evidence on behalf of the First Applicant from Mr Yiu, who confirmed the content of his witness statement dated 1 October 2025 and from Ms Zeng on behalf of the Second Applicant, who confirmed the content of her witness statement also dated 1 October 2025. All the parties made submissions. We reserved our decision.

The background

6. The subject property is a five-bedroomed terraced house situated in Norwich. It has a shared kitchen and bathroom. 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 First Applicant's case is that he was a tenant of a bedroom in the property between 1 September 2023 and 31 August 2024. He says that after the Second Applicant moved in to the property on 7 October 2023 until January 2024, the property was occupied by five tenants, namely him, the Second Applicant, Ms Jess Kwan, Mr Junxiong Wang and Mr Junyu Miao. In January 2024, Mr Miao moved out and there were only four tenants living at the property. It is not asserted that there were ever more than four tenants living in the property after Mr Miao moved out.
8. The Second Applicant's case is that she was a tenant of another bedroom in the property between 7 October 2023 and 15 July 2024. She agrees with the First Applicant about the number of tenants living in the property from the date that she moved in to when Mr Miao moved out in January 2024 and about the identities of the tenants.
9. The Applicants accept that the applicable licensing requirements in Norwich at the material time meant that the Respondents were only required to hold a HMO licence if the property was occupied by five or more tenants forming two or more households. They say that the Respondents did not hold a HMO licence at any material time and that an offence was committed between 7 October 2023 and January 2024.
10. The Respondents do not accept that Mr Miao lived at the property until January 2024. They say that he moved out, with their assistance, on 25 November 2023. They assert that they have a reasonable excuse for any offending between 7 October 2023 and 25 November 2023. Finally, they say that, even on the Applicants' case taken at its highest, the Applications have not been made within 12 months of the alleged offending and therefore no RROs can be granted under section 41 of the 2016 Act.

The issues

11. The parties 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 Respondents have committed an offence to which Chapter 4 of the 2016 Act applies.

- (ii) whether the Applicants 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.
- 12. 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

- 13. 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.
- 14. 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.”*
- 15. 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.*
- 16. 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.
- 17. 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.*

18. 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.
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. 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?

23. There is no dispute that, if occupied by five or more people forming more than one household, the property would fall within the definition of a HMO, and that the Respondents, as the owners of the property who received the rent, would be persons managing or having control of the HMO. Neither is it disputed that no HMO licence was in place in respect of the property at any material time.

Mr Miao

24. Though both Applicants said in their witness statements that Mr Miao moved out of the property in January or February 2024, the First Applicant confirmed that he did not see Mr Miao move out, as he was away in Egypt at the time. The Second Applicant was less clear about this issue in her oral evidence than she was in her witness statement, and said that she thought that Mr Miao might have moved out at Christmas, though she recalled having dinner with him at Chinese New Year. In light

of these issues, we did not find their evidence about precisely when Mr Miao moved out of the property particularly helpful.

25. As to the evidence of Ms Zeng and Mr Yiu, neither of them lived at the property at any time. Ms Zeng did not see Mr Miao moving out, and she could only say what she observed in February 2024, which was that Mr Miao was not living there then. Mr Yiu said that he saw Mr Miao at the property in October, November, December 2023 and in January 2024, but it does not follow, in our judgment, that he was living there.
26. We consider that the best evidence of the date of Mr Miao's departure from the property is to be found in the contemporaneous correspondence between the Second Respondent and Mr Miao. The Second Respondent provided us with a screen shot of "WeChat" conversations between her and Mr Miao on 25 November 2023. All of the parties agreed that these records show that on that date, Mr Miao and the Second Respondent were making arrangements for Mr Miao to move out of the property that day. Indeed, the messages confirm that Mr Smith was at the time loading Mr Miao's belongings and transporting them to another property.
27. The Second Respondent's evidence, which was given in a clear and straightforward manner, and which we accept as true, is that the Second Applicant had originally taken a tenancy of a room at another property owned by the Respondents at 28 De Hague Road, Norwich, for a term from 15 September 2023 to 14 July 2024. The Second Applicant's friend, Jess Kwan, had also taken a tenancy at the same property. However, after a few days living there, the Second Applicant and Ms Kwan had decided that the De Hague Road property was not suitable for them as they wanted to have larger bedrooms. They asked to be moved elsewhere, and they wanted to live together. The Respondents treated this request with urgency as they were concerned for the Second Applicant's comfort, so they arranged for her and Ms Kwan to move together to the property at Wycliffe Road. Both moved into Wycliffe Road on 7 October 2023. The Respondents have a policy that no more than four people should occupy any of their properties at any one time. The Second Respondent confirmed that this was so that they did not need to obtain HMO licences. Accordingly, the Respondents agreed with Mr Miao that he would move out of the property and would be accommodated by them elsewhere. It took a few weeks for the necessary arrangements to be made, and on 25 November 2023, Mr Miao in fact left the property. We so find.
28. Accordingly, we are satisfied beyond reasonable doubt that for a period of around seven weeks (from 7 October 2023 to 25 November 2023) the property was occupied as their main residence by five people who did not form a single household, who paid rent to the Respondents, and who shared the kitchen and bathroom at the property.

29. We are also satisfied beyond reasonable doubt that the property was required to be licenced under section 61(1) of the 2004 Act from 7 October 2023 to 25 November 2023. The Respondents 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. It is accepted that no HMO licence was in place in this period.

Reasonable excuse

30. It is for the Respondents to establish on the balance of probabilities that they had a reasonable excuse for continuing to have control of or manage the property in the seven weeks between 7 October 2023 to 25 November 2023 without a HMO licence.
31. On the facts as we have found them to be, we do not consider that such a defence is made out. The Respondents accept that they were aware of the requirements to obtain a HMO licence when a property is occupied by five or more people. Though we accept that the situation was only ever intended to be (and in fact was) temporary, and that the issue only arose because of the Second Applicant's wish to move from De Hague Road to Wycliffe Road, which the Respondents were anxious to accommodate, this is exactly the type of situation that section 62 of the 2004 Act (temporary exemption notices) is intended to address. There is no suggestion that the Respondents were unaware of the provisions of section 62, or that they approached the local authority for advice or took any other steps to understand how to manage the property during this temporary period of over-occupation. The Respondents own more than one property in the Norwich area in which they let bedrooms, and they are in our judgment properly described as professional landlords who should either have been aware of the rules or should have taken steps to establish what the applicable rules were, notwithstanding their intention to decant Mr Miao as soon as they could.

Conclusions

32. In light of these findings, we are satisfied beyond reasonable doubt that the Respondents were from 1 October 2023 to 25 November 2023 without reasonable excuse persons having control of or managing an HMO which was required to be licensed under section 61(1) of the 2004 Act and which was not so licensed and that accordingly they have committed an offence under section 72(1) of the 2004 Act.

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

33. We have found that the Respondents committed an offence under section 72(1) of the 2004 Act between 1 October 2023 to 25 November 2023. On our findings set out above, the Respondents did not commit

any offence under section 72(1) after 25 November 2023, when Mr Miao left the property and only four people were in occupation.

34. The Applications are dated 16 June 2025 and were received by the Tribunal on that date. This is much later than 12 months after 25 November 2023, the last day of the offending. Indeed, even if the Applicants' claims are taken at their highest, both agree in their "grounds for making the application" document dated 16 June 2025 that after January 2024 until they moved out, the property was never occupied by more than four tenants. The Applications were made more than twelve months after even the end of January 2024.
35. As no offence has been committed by the Respondents during the period of 12 months ending with the date of the applications for RROs, the Applications are both out of time and stand to be dismissed.
36. We accordingly dismiss both Applications and make no rent repayment order in favour of either Applicant.

Name: Judge K Neave

Date: 26 February 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).