



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

Case reference	:	CAM/38UC/HMK/2024/0603
Property	:	14B Mallard Close, Oxford OX4 6EN
Applicant	:	Ewa Zalewska
Representative	:	Justice for Tenants
Respondents	:	1. Oskar Ochylski 2. Izabela Ochylska
Type of application	:	Application by tenant for rent repayment order – Section 41 of the Housing and Planning Act 2016
Tribunal members	:	Judge Hunt Mrs S. Redmond MRICS
Date of hearing	:	11 August 2025 (remote hearing)
Appearances at hearing	:	Mr B. Leacock (for the Applicant) Mr O. Ochylski (for the Respondents)
Date of decision	:	13 August 2025 (as amended on 23 August 2025)

DECISION

1. The application for a rent repayment order succeeds against the First Respondent, Mr Oskar Ochylski.
2. The First Respondent, Mr Oskar Ochylski, must repay to the Applicant the sum of £2,438.74.
3. The First Respondent, Mr Oskar Ochylski, must also pay to the Applicant the sum of £165 in reimbursement of Tribunal fees paid.

4. The application for a rent repayment order against the Second Respondent, Mrs Izabela Ochylska, is dismissed.

REASONS

Introduction

1. The Applicant rented 14B Mallard Close, Oxford, OX4 6EN (the “Property”) from the Respondents pursuant to an assured shorthold tenancy from 1 May 2022. At the time of the hearing, the Applicant still lived at the Property.
2. On 18 July 2024, she applied to this Tribunal for a rent repayment order in accordance with section 41 of the Housing and Planning Act 2016. She asserts that the Respondents, had committed an offence between 1 September 2022 and 23 July 2023 by failing to license the Property.
3. The Applicant seeks an order requiring the Respondents to repay rent totalling £4,877.48 that was paid by her during this period (after taking account of contributions to the rent from her former partner and universal credit).
4. In reaching its decision, the Tribunal considered 2 files of documents, one provided by the Applicant and the other from the Respondents. It heard from all parties present and from the Applicant’s representative (the Second Respondent did not attend). The Tribunal was grateful to all for their preparation of the papers, their helpful submissions and their assistance at the hearing.
5. The Tribunal will outline the relevant facts, law, issues and then its conclusions explaining why it arrived at its decision.

Facts

6. All of the findings of fact below are made on the balance of probabilities in light of the evidence that was available to the Tribunal, save in relation to whether an offence was committed, which is a finding made beyond reasonable doubt. The Tribunal found that both witnesses’ evidence was largely consistent, save as to matters of detail. It found that, overall, it accepted most of what the witnesses said.
7. In July 2020, the First Respondent obtained planning permission to convert 14 Mallard Close into 2 dwellings (a ground floor and first floor flat). The works were undertaken. The Property is the first floor flat and was let for the first time in 2021.

8. The Property can be accessed in one of 2 ways. Firstly, via a gate fronting Mallard Close, through a garden and through an internal staircase. The gate and garden have shared access with the occupiers of the ground-floor flat. The internal staircase is accessed by a separate entrance that is not shared. Secondly, an external staircase leads up from a path from a car park at the rear of the Property directly to an entrance on the first floor. This pathway and staircase are not shared. The staircase has a small external landing above part of the ground-floor flat, stated to be a bathroom. The Applicant primarily accesses the Property via the car park, rear garden and external steps.
9. The First Respondent informed the Tribunal that all relevant building regulations were adhered to during the construction. The Tribunal accepted this evidence.
10. At the time the works took place, the area within which the Property was located was not subject to “selective licensing”. Broadly, and so far as relevant, selective licensing means that rental properties must be licensed by the local housing authority (Oxford City Council (the “Council”) in this case). The Respondents were not informed about any future selective licensing at this time.
11. On 10 March 2021, the area was designated for selective licensing by the Council. The designation was confirmed on 21 April 2022 and came into force on 1 September 2022. The Respondents were unaware of this at the time and until 18 July 2023 when the Council wrote to the First Respondent to explain that he required a licence if he was letting the Property.
12. On 25 April 2022, the Applicant agreed to rent the Property pursuant to an assured shorthold tenancy, for a term commencing on 1 May 2022, at a rent of £1,050 per calendar month (payable monthly in advance). The “*Landlord*” was named as the Respondents. The deposit and rent were payable to the First Respondent and were subsequently paid to him. The “*Tenant*” was named as the Applicant and her (now former) partner. Clause 1 provided that the tenants were jointly and severally liable for all obligations (evidently including rent). Clause 2.23 says that pets can’t be allowed into the Property without the Respondents’ written permission. Clauses 2.46-2.48 provide that the Applicant will give the Respondents and/or their agents and contractors access to the Property for repairs, inspections, valuations and visits from potential future tenants/purchasers, upon being given 24 hours’ written notice. In an emergency, no notice is required. Through clause 2.49, the Applicant permits the Respondents and/or their agents to hold a set of keys to the Property for use in case of emergency. The tenancy agreement was signed by all parties on 29 April 2022.

13. The Applicant brought her pet cats to live with her. The Respondents did not provide written permission, but tolerated them being there. The occupier of the ground-floor flat held a set of keys to the rear gate to the Property, with the Respondents' knowledge and consent.
14. The first instalment of rent was paid on 3 May 2022. Rent was subsequently paid regularly (although not always in a single sum or on time) until January 2023 (according to the First Respondent's bank statements, which the Tribunal accepted). From 1 January to 31 July 2023, rent was paid as follows, typically in several instalments over the month, not once on time in advance:
 1. January 2023 (£950);
 2. February 2023 (£550);
 3. March 2023 (£1,300);
 4. April 2023 (£800);
 5. May 2023 (£1,300);
 6. June 2023 (£550);
 7. July 2023 (£1,950, of which £1,050 was paid on 31 July).
15. £7,350 rent was due overall for the period, and £7,400 was paid (although the payment on 31 July 2023 could just as well be considered as payment for August 2023). On 17 July 2023, an instalment plan was agreed between the parties to address the arrears. Between August and November 2023, the Applicant remained in a low level of arrears, which were only "potentially cleared" on 27 November 2023. "Potentially cleared" because the parties are in dispute about whether the rent was validly increased to £1,150 in September 2023. If the rent had increased, the Applicant would have remained £300 in arrears on 27 November. That is not a matter for this Tribunal to determine.
16. From December 2023 – April 2024 rental payments were made on account of the majority of rent due (less so if taking the higher rental figure). From April 2024, onwards, arrears began to accrue relatively significantly, even on the basis of the lower rental figure. The rent was once again purportedly increased with effect from 1 October 2024 to £1,250. Once again this is in dispute and it is not a matter for this Tribunal to determine. Regardless, arrears continued to accrue, although regular payments were being made. For the month of March 2025, £200 was paid. No further sums had been paid up until the hearing.
17. Once again, it is not for this Tribunal to determine how much rental arrears have accrued to date. However, it found that, even taking the lowest rental figure of £1,050 per month, around £8,000 was outstanding at the date of the hearing (inclusive of

rent due for August 2025). If both rental increases were valid, the arrears would stand at around £11,500.

18. As between her former partner and herself, the Applicant was responsible for making rental payments to the First Respondent. The Applicant said that her former partner contributed by making payments to her, but not his full share. Overall, she said that he had contributed £3,750 of the £8,876.16 rent paid for the period. The Respondents did not dispute this and it was not far below 50% of the rent paid, so the Tribunal accepted this figure. Universal credit was agreed to amount to £248.68 of the rent paid.
19. In relation to other matters, the first issue of note alleged by the Applicant was that, sometime in August 2022, she believes that the Respondents accessed the Property without her permission whilst she was on holiday for 2 weeks. A bathroom window was left open, allowing her cats to escape. Happily, they were retrieved outside the Property. No recorded complaint seems to have been made and no other evidence was presented about this matter. The Tribunal noted that the Applicant was living at the Property with her former partner at that time and it could also have been either of them who left the window open. No details of any similar unauthorised entry were provided, so the Tribunal concluded that the Respondents had not accessed the Property as alleged.
20. At the start of the tenancy, the Respondents were up to date with gas safety inspections. An annual inspection and boiler service took place on 27 October 2022. A further inspection and service was due on 27 October 2023. It was not done until 16 March 2024. The exact chronology was unclear. The parties made reference to the Applicant refusing to allow access at short notice to the engineer and him not being able to gain access to the Property as the Applicant was out. The Tribunal was provided with an email from the Second Respondent to the Applicant dated 26 February 2024 stating: *"There is also gas safety/boiler check planned on Saturday between 10am – 1pm. Exactly time will be confirm by a company on Friday"*. A further email from 11 March 2024 refers to him not being able to access the Property on 28 February, arranging a further visit. The Tribunal had little more information, so concluded that the Respondents had not asked for the inspection to take place until 2 March 2024, when it was delayed due to a scheduling difficulty between the Applicant and the engineer.
21. In January 2023, the Property's boiler stopped working. The Applicant informed the Respondents on 15 January 2023. She chased them up on 18 January 2023. Immediate repairs were arranged, but the Applicant would have preferred they were

delayed until the next day due to personal commitments, including a sensitive appointment.

22. In February 2023, the Respondents had determined to sell the Property. They served a “section 21 notice” on the Applicant. They allowed the Applicant and her partner 3 months to vacate the Property. In parallel they sought to market the Property for sale.
23. In or around the same time, the Applicant submits that the external staircase was subjected to repair works. Very little documentary information was available to the Tribunal about this issue. The best information that the Tribunal had was a statement from the Applicant that works had taken place on the external staircase in February 2023, which was supported by photos showing that the floor panels had been lifted for repairs and left strewn across the external landing. She says that the staircase remained in that condition until September 2023. An email from the occupier of the ground-floor flat to the Respondents dated 18 July 2023 referred to a leak in that area, citing “*previous issues with ... first floor garden stairs*”. The First Respondent admitted that the staircase had required a lot of work, including numerous investigations to understand the origin of the leak, which work had sometimes been delayed by the weather. However, he said that the staircase had not been left in the state recorded by the Applicant for long. The Tribunal was shown no documentary evidence of contemporaneous complaints having been made by the Applicant about the state of the staircase.
24. Doing its best from the sparse available information, the Tribunal concluded that the occupiers of the ground-floor flat had complained to the Respondents in or around February 2023 that the external staircase had developed a leak into the ground-floor flat. The Respondents investigated the issue, without great success and hindered by wet weather not unusual for February/March time. The staircase had been left in a temporarily poor state during the investigation and subsequent repairs, which took longer than anticipated. The Applicant recalls this, as it was a major inconvenience, the external staircase being her primary access to the Property. However, the works did not take as long as she said. It’s inconceivable that the staircase could have been left in that state when it would have been leaking into the ground-floor flat (whose occupiers were actively pursuing the Respondents about it). It would have prevented both the Applicant and her former partner safe access to their primary entrance and car park; it is very unlikely that they would not have complained forcefully about the issue after so many weeks and months. Equally, when further repairs were subsequently conducted in September 2023, no reference was made to the works having been outstanding for months or any inconvenience that caused (the Tribunal will return to the September repairs below).

25. From around April 2023, again there is very little documentary evidence available. Once again, extrapolating from the paucity of evidence, the Tribunal concluded that the Respondents sought to begin arranging visits of the Property, which the Applicant was not happy about. In parallel, the Applicant had been liaising with the Council about alternative housing options. The Applicant was informed by the Council that the section 21 notice was invalid as the Property was not licensed. She therefore refused to leave the Property and communicated that to the Respondents on 27 May 2023, almost exactly the date the Respondents believed the Applicant was required to leave.
26. A heated phone exchange took place with the First Respondent and he attended the Property the following day, where the argument continued. The First Respondent accepted that an argument took place. The Applicant recorded in her statement “*he actually ran into me*”. The Applicant also recorded that afterwards: “*he sent his men after me, who visited my house and wanted to come in and talk about moving in on behalf of the landlord. When I said I would record our conversation, they turned around and left*”. She took a photo of them, a copy of which was provided to the Tribunal.
27. As to what truly happened that day, it is difficult to establish from the available information. The Tribunal considered that, if the First Respondent’s actions were violent and especially misplaced, it would have solicited further action from the Applicant, especially as she was in direct contact with the Council’s housing team at the time. There is no record of her making any written complaint about his conduct. The nature of subsequent exchanges between the parties do not leave any impression that the argument that took place was anything of particular concern to either party. In fact, the Applicant has remained in the Property ever since and has engaged with the Respondents on several matters without obvious hesitation or trepidation. The Applicant referred to several voice notes and text messages exchanged around this time, which had been shared with her advisors. None were provided to the Tribunal, so it concluded they were unlikely to have demonstrated any threatening behaviour that would have materially supported her case about the First Respondent’s alleged conduct.
28. Accordingly, the Tribunal concluded that there had been an argument, but that its nature had been somewhat exaggerated by the Applicant, similarly to how she described the state of the external staircase as recorded above. The Tribunal found that the First Respondent had bumped into the Applicant during their argument. Essentially, the First Respondent was annoyed at having been given notice so late on that the Applicant would not in fact be vacating the Property. He complained about that robustly.

29. However, as to the attendance at the Property by the First Respondent's "men", the Tribunal accepted the Applicant's statement. They had been photographed at the Property. Their attendance was subsequently referred to directly by the Applicant in an email exchange with the Respondents just over a month later on 5 July 2023, in relation to a proposed property viewing. She wrote: *"I hope this letter finds you well"*. She then raised a concern about her tenancy and notice period being unclear. She then mentioned *"previous incidents of trespassing without consent, where individuals were sent to the property without prior notification or my permission. These actions have left me feeling uncomfortable and concerned for my privacy and safety. I expect that as a tenant, my rights will be respected, and no intimidation tactics will be employed to coerce or pressure me into any agreements or visits"*. She sought reassurance that her rights would be fully respected. As referenced above, the Applicant did not mention anything specific about the First Respondent's behaviour, but did express concern at the unannounced visit of his "men". The Tribunal concluded this was what she was referring to when mentioning *"intimidation tactics"*. Later on, in relation to the same email thread and issue, the Applicant wrote to the Respondents that she wanted future visits to the Property to be *"approved by the Oxford Council and recorded by an internal camera"*. The email responses did not suggest that nothing untoward had happened. In fact, the Respondents wrote that they *"understand your concerns"*. At the hearing, the First Respondent was somewhat evasive, suggesting that the Applicant regularly jumped out of the Property to take photos of visitors. The Tribunal found that implausible and that it was more likely that the First Respondent, frustrated at having just been told that the Applicant would not vacate the Property, had asked some acquaintances to head over to encourage her to do so. Although they left peaceably, these exchanges demonstrate that the Applicant had felt intimidated, albeit it had not had the effect of prompting the Applicant to leave.
30. The Applicant says her partner moved out on 30 May 2023. The Respondents were not aware of this and still believed him to be living there until they were contacted by the Applicant by email on 22 May 2024 asking for a "certificate" that he had ceased residing at the Property on 1 June 2023.
31. On 18 July 2023, the issue of the leaking external staircase resurfaced as mentioned above. The Respondents wrote back the next day to apologise to the occupier of the ground-floor flat and to say that someone would attend 2 days later to fix it.
32. On the same day, the Council wrote to the First Respondent to explain that he might require a licence and the potential serious consequences if he failed to apply for one. The letter referred to knowledge that the Property had previously been let and the

Tribunal concluded this was a reference to the Applicant's contact with the Council's housing team. No reference was made to any allegations of improper conduct on behalf of the Respondents. The First Respondent applied for a licence within a week, on 24 July 2023, which was subsequently granted. An inspection by the Council took place towards the end of August 2023. The Applicant said that several issues were raised by the inspector, such as relating to fire doors and the external staircase. A report was never provided to either party. The Respondents say that the Property was up to the standard required and were not required to undertake any further works. However, works were undertaken to the external staircase in early September 2023, which had originally been planned for before 6 September 2023 according to an email of that date from the Respondents to the Applicant stating that an invoice would be sent to the Applicant "*for failure to give access on previous urgent and necessary repairs*". The email said the works would take place the next day. The Tribunal had no information about the origin of the request for that work. As there was no evidence of any further contact from the Council, but there was much evidence of complaints from the occupier of the ground-floor flat, the Tribunal concluded that these repairs had been requested by the latter. It therefore accepted that the Property complied with the licence requirements in all respects. The Council has taken no other steps in relation to compliance or enforcement.

33. The repairs began on 7 September 2023. The following day, the Applicant complained that insufficient notice had been given and that the works had caused disruption. On 10 September 2023, the Respondents proposed to return the next day for 2 more days. Upon the Applicant's request, the work was pushed back to 12 and 13 September 2023.
34. On 12 September 2023, presumably because of the delay, a further leak was reported by the occupier of the ground-floor flat, right above an electrical socket. The repairs were conducted, but, rather unfortunately, the issues with the external staircase did not cease, and the documents refer to several further repairs that have been required over time. The details are irrelevant to the Tribunal's determination.
35. In relation to the Respondents' financial circumstances, they submitted they were private individuals with limited means, operating one rental property and running a restaurant business. The Tribunal accepted this, but had no further detail. The Tribunal heard, and accepted, that they had a mortgage to service on the Property, for which monthly instalments had increased at one point to around £1,400 as interest rates rose.

Relevant Law

36. Section 85 of the Housing Act 2004 requires certain houses that are occupied under tenancies to be licensed by the local housing authority, in this case the Council. There was no dispute that the Property was one that required a licence. The requirement to license the Property came into effect on 1 September 2022.

37. Section 86 of the Housing Act 2004 provides that certain houses can be temporarily exempted from the licensing requirement. This occurs when the local housing authority serves a “temporary exemption notice”. The temporary exemption lasts for 3 months. A further temporary exemption can be sought, but only once and only in exceptional circumstances.

38. Section 95 of the Housing Act 2004 is as follows, so far as is relevant.

“95 Offences in relation to licensing of houses under this Part

(1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

...

(3) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—

(a) a notification had been duly given in respect of the house under ... section 86(1), or

(b) an application for a licence had been duly made in respect of the house under section 87,

and that notification or application was still effective (see subsection (7)).

(4) In proceedings against a person for an offence under subsection (1) or (2) it is a defence that he had a reasonable excuse—

(a) for having control of or managing the house in the circumstances mentioned in subsection (1)”.

39. Section 98 of the Housing Act 2004 provides that:

“(1) No section 21 notice may be given in relation to a shorthold tenancy of the whole or part of an unlicensed house so long as it remains such a house”.

40. A “section 21 notice” refers to a written notice given by a landlord in accordance with section 21 of the Housing Act 1988 notifying a tenant that it requires possession of the property.

41. Section 263 of the Housing Act 2004 provides a definition of “person having control” and “person managing”. For present purposes, the first definition requires the person to receive the “rack-rent” (two-thirds of the rent). The second definition requires the person to be an “owner” or “lessee” of the Property who receives rent (including through an agent or trustee) or would do so but for having entered into an arrangement with someone other than an owner or lessee. It was not disputed in this case that the First Respondent satisfied at least the first definition as the person who received all the rent.

42. Section 40 of the Housing and Planning Act 2016 provides that this Tribunal can make a “rent repayment order” – an order requiring a landlord to repay an amount of rent paid by a tenant – where the landlord has committed an offence under section 95(1) of the Housing Act 2004.

43. Section 43(1) of the Housing and Planning Act 2016 is as follows.

“43 Making of rent repayment order

(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)”.

44. Section 44 of the Housing and Planning Act 2016 provides that the amount of rent to be repaid must relate to a period, not exceeding 12 months, during which the landlord was committing the offence. Also, it must not exceed the rent that was paid in respect of that period, excluding any relevant award of benefit. Further, it provides as follows:

“(4) In determining the amount [of the rent repayment order] 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” [not applicable in this case].

45. Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 allows the Tribunal to order a party to reimburse another party for any Tribunal fees paid.

Main Issues

46. The main issues for the Tribunal to determine were as follows.

1. Whether both Respondents could be the subject of a rent repayment order.
2. Whether the Tribunal was satisfied beyond reasonable doubt that the relevant Respondent(s) had committed an offence at all relevant times, including considering whether they had a reasonable excuse for not having licensed the Property.
3. If so, whether the Tribunal should make a rent repayment order.
4. If so, in what amount, taking account of the rent paid, the parties' conduct and the financial circumstances of the relevant Respondent(s).
5. Whether the Tribunal should make any order in relation to the reimbursement of Tribunal fees paid by the Applicant.

Conclusions

Issue 1: who can be the subject of any rent repayment order?

47. The ownership of the Property was unclear to the Tribunal from the available documents. It appears that, after the conversion, the Property was divided into 2 leasehold units, with the freeholder being a company owned jointly by the First Respondent and the occupier of the ground-floor flat. Land registry records show that the 2 flats are subject to registered long leases, with the lease to the first-floor flat possibly being held by a company owned by the Respondents. No findings of fact were made about these issues as the only reason they may be relevant is to establish whether the Second Respondent should be considered capable of having committed an offence as "person having control" of or "person managing" the Property.

48. The Tribunal understood why the Applicant had considered both Respondents the "landlord" for the purposes of her application for a rent repayment order, as both were named on the tenancy agreement as such. However, the Second Respondent was not obviously entitled to the rent, which was payable in its entirety to the First Respondent (and was only ever paid to him). The Second Respondent does not appear to have taken much active role in the proceedings, or indeed the management of the Property (save as to be a point of contact with the Applicant about inspections, repairs and other administrative matters). In reality, she could just as well be considered an agent of the First Respondent when performing these tasks. The First Respondent better fits the description of "landlord" as being entitled to the rent. The matter was not in dispute between the parties, but the nature of the proceedings is such that the Tribunal must be satisfied that the Second Respondent has committed an offence in order to make a rent repayment order against her. It should not make such a finding lightly. It is more a question of legal analysis than fact, but the Tribunal was mindful that it should be able to establish with confidence that a Respondent is properly to be considered a "landlord" for the purposes of section 40 of the Housing

and Planning Act 2016 prior to determining whether they have committed an offence. It was not so satisfied.

49. Even if it was wrong about that, the Tribunal was not satisfied beyond reasonable doubt that the Second Respondent had committed an offence. She did not receive the rack-rent of the Property, so was not a “person having control” of it. The Tribunal also did not find, beyond reasonable doubt, that she was a “person managing” the Property as it was unclear whether or not she was its “owner or lessee”. Even if she was, the Tribunal would have to be satisfied that the First Respondent held a “share” of rents on trust for her, and it was not prepared to do so simply on the basis that the Second Respondent’s name featured on the tenancy agreement.
50. None of this analysis affects the First Respondent. He did not dispute he was the Applicant’s landlord. All of the circumstances clearly demonstrated he was and he received the full rent, so was a “person in control” of the Property. Accordingly, the Tribunal concluded that a rent repayment order could be made against the First, but not the Second, Respondent. This does not affect any other of the Tribunal’s findings or reasons.

Issue 2: was an offence committed?

51. The First Respondent agreed that the Property was required to be licensed in accordance with section 85 of the Housing Act 2004 and that it was not licensed at the relevant time. This was clearly correct. On this basis, the Tribunal was satisfied that the core elements of the offence under section 95 of the Housing Act 2004 were made out.
52. The First Respondent submitted that he was unaware of the requirement. The Tribunal is required to consider whether he had a “reasonable excuse” for failing to licence the Property. If he did, he would have committed no offence.
53. The Tribunal concluded that he may or may not have been aware of the requirement, but it is incumbent on a landlord to familiarise themselves with their responsibilities. It may be the case that the Council’s website is not especially easy to navigate for the uninitiated and the Council could have done more to notify the First Respondent of his responsibilities, especially as it was aware he had recently converted 14 Mallard Close into 2 flats. However, that was prior to the designation being made and a landlord is expected to show some proactivity in keeping abreast of their obligations and responsibilities and to take all reasonable steps to do so.

54. In light of these factors, the Tribunal found that the First Respondent had no reasonable excuse for failing to comply with the requirement to have a licence for the Property. Accordingly, the Tribunal found, beyond reasonable doubt, that he had committed an offence and was doing so throughout the period in dispute.

Issue 3: whether to make a rent repayment order?

55. The Tribunal determined that there are good reasons for requiring properties to be licensed and that a failure to do so is a serious matter, hence it is an offence. A landlord is expected to be proactive in relation to the efficient management of their properties. A housing licence greatly assists with that by providing a framework for engagement with the local housing authority and ensuring compliance with applicable safety and management standards through conditions. Accordingly the Tribunal was satisfied it should make a rent repayment order.

Issue 4: the amount of the rent repayment order

56. As to the appropriate level of any repayment, the Tribunal noted that the Council was already aware that the First Respondent was a landlord and had been since its exchanges with the Applicant in early 2023. This contact was not unprompted, but had nothing to do with any issues that would have been addressed through licensing. The Council wrote to the First Respondent about applying for a licence and he promptly did so (within a week). No issues were raised about compliance. The First Respondent had no history of trying to conceal his status as a landlord or any matters related to the Property. He complied with all planning and building requirements as and when the need arose.
57. The Tribunal therefore concluded that all of the purposes of the licensing regime had already been achieved, save that the Council was unaware the Property was let for the period September 2022 – early 2023. Accordingly, this was not a particularly serious instance of this offence, so the Tribunal determined that the rent repayment order should be set at a moderate level. As a “starting point”, it considered that the First Respondent should repay 50% of the rent received during the period in dispute.
58. The Tribunal then factored in the respective conduct of the parties. It noted significant noteworthy conduct in relation to both. It found that, although it could (and did) take into account conduct outside the period of offending, a significant purpose of any rent repayment order is to address the issues that arose during that period. Some focus on conduct during that period would be appropriate, especially in a case such as the present where the offending ceased in July 2023, the Applicant

continues to occupy the Property and the matter has only come to hearing over 2 years later.

59. As to the Applicant's conduct, she has a distinctly chequered history of complying with her obligation to pay the full rent monthly in advance. During the period January – July 2023, she was consistently in arrears of rent. Thereafter, little changed up until April 2024, at which point arrears began to accrue significantly. The Tribunal found it appropriate to focus mostly on the period in dispute. It determined that compliance with a tenancy agreement's terms as to rent is one of a tenant's key obligations. It is not optional or to be treated as flexible. Although arrears at any given time in the period in and around 2022-2023 were not hugely significant, rental payments were also sporadic. The First Respondent had to meet regular outgoings relating to the Property, including in relation to repairs and mortgage payments. A landlord is entitled to expect consistency of payments to allow for proper financial planning and budgeting. It was only in July 2023 that the Applicant proposed a payment plan to address arrears of rent. Accordingly, the Tribunal determined that it should reduce the "starting point" by 10%.
60. The First Respondent submitted the Applicant's keeping of pets at the Property, in breach of the tenancy agreement, should also factor against her. However, the Tribunal found this was tolerated and determined to make no further deduction.
61. As to the First Respondent's conduct, several complaints were made by the Applicant. The Tribunal found most of them to be unfounded or trivial. There were no significant issues regarding the state of the Property. When required (especially in relation to the external staircase), repairs were conducted promptly. They were not always done in a way to prevent disturbance to the Applicant, but the nature of the works, being to the Applicant's primary access to the Property, made that evidently challenging. There may have been occasions where no, or insufficient, notice was given to the Applicant, including in relation to a boiler repair, which is unfortunate. On the other hand, at least some of the repairs were arguably urgent – including the broken boiler – most were external, and the work was done promptly. More typical tenant complaints relate to works not being done at all, or too slowly. The gas safety inspection in 2023 was delayed a few months, which is far from ideal. However, part of the delay was down to the Applicant and the gas installation was relatively new, modern and had otherwise been regularly serviced since its installation.
62. The Applicant also expressed concern about 2 CCTV cameras attached to the exterior of the Property. They may or may not be operational, but the Respondents say they have no access to footage. The Applicant submits that they are fed by electricity, but has no other evidence about them apart from that she believes the occupier of the

ground-floor flat has access to the footage. She feels they are to monitor her movements. The Tribunal did not need to make any findings on this issue as it did not consider it significant. The cameras were external and many tenants prefer to have cameras installed for security purposes.

63. The Applicant also raised concerns about an alleged failure to be provided with a key to the gate to the front garden, which resulted in deliveries sometimes being left on the pavement. The First Respondent said this lock had been installed by the occupier of the ground-floor flat, that he did not have a key himself and that it was only closed at night for security reasons. The Applicant said it was also locked during that occupier's holidays. The First Respondent offered at the hearing to help the Applicant source a key. The Tribunal noted that the Applicant's primary entrance was unrelated, passing through the rear garden. It had no evidence of any persistent requests for a key. It determined again that this was an insignificant issue about which it needed to make no findings. Similarly the complaint that the occupier of the ground-floor flat has a key to the gate to the Property.
64. The Applicant also complained that the Respondents had not registered the Property with Royal Mail. The Tribunal was not aware they were under obligation to do so. It was required to register the Property with the Council and/or Valuation Office Agency, which had been done. The Land Register records an entry for the Property. Again, this was not a matter that the Tribunal found relevant to conduct.
65. The only conduct that the Tribunal did determine to be relevant was significant. It related to the service of the section 21 notice in February 2023. Firstly, the notice was invalid as the Property had not been licensed. The precise terms of section 75 of the Housing Act 2004 are instructive. It is clear that a "purported" notice should not be served either. It would contain entirely inaccurate information about both a landlord and tenant's rights that would simply put undue pressure on a tenant to vacate. That is precisely what happened in this case. The Applicant had been misled and required the Council's assistance to understand her rights. Ultimately, she did not vacate the Property, but understandably was confused and distressed by the situation. To a degree that is unavoidable when facing losing one's home, but it is a landlord's responsibility to pursue a lawful process in obtaining possession of their property.
66. Secondly, and of greater significance, the Tribunal found that at the end of the purported notice period, the First Respondent argued with the Applicant for 2 consecutive days and bumped into her. That is plainly inappropriate, even if the nature of the argument was somewhat overstated by the Applicant. Ultimately, the Applicant was doing nothing other than seeking to enforce her rights and any

frustration that the First Respondent bore was due to the Respondents' own failings in serving an invalid section 21 notice.

67. Thirdly, and of far greatest significance, the First Respondent had instructed acquaintances of his to attend the Property to encourage the Applicant to vacate. Were this established "beyond reasonable doubt", this action could constitute a serious offence under the Protection from Eviction Act 1977, leading to potential imprisonment. There was plainly too little evidence to establish that any offence was in fact committed, however. Overall, the Tribunal was satisfied on the balance of probabilities as to what had occurred, but it was not a finding on which it had a great degree of confidence due to the limited evidence available. The acquaintances had not been aggressive or violent and their visit was not repeated, but the purpose and effect on the Applicant were clear. She wrote lengthy emails to explain the distress it caused. This was extremely poor judgment on the First Respondent's behalf and warrants significant sanction.

68. Taking these factors together, the Tribunal concluded it should increase the "starting point" by 30% on account of the Respondent's conduct, which amounts to an increase of over 50% in financial terms.

69. In summary, the "starting point" of 50% was reduced to 40% on account of the Applicant's conduct, but then increased to 70% on account of the First Respondent's conduct.

70. The Tribunal then considered whether any further adjustment would be appropriate on account of the First Respondent's financial circumstances. Although the Tribunal had little objective information, it accepted that he was not an especially wealthy individual. Of most relevance, rental arrears had accrued to at least £8,000 (on the most conservative assessment, possibly up to around £11,500) by the time of the hearing. The Tribunal was clear that any landlord, especially one with a single rental property and relatively limited means, with a mortgage to pay and ongoing periodic expenditure on a property, is clearly going to suffer an adverse financial impact from such significant arrears. The Tribunal preferred to treat this level of arrears as separate and distinct from the deduction made on account of the Applicant's conduct, for which the focus had been on the period in dispute. It is unimportant whether this issue should also or alternatively be considered as part of the Applicant's conduct; the Tribunal was satisfied that both adjustments were appropriate and was mindful not to "double-count". The Tribunal determined to make an allowance of 20% on account of this issue, ultimately returning to the "starting point" that it should make a rent repayment order amounting to 50% of the rent paid.

71. The maximum amount of rent to be repaid was agreed between the parties to be £4,877.48. The First Respondent was ordered to repay 50% of this rent, which is £2,438.74.

Issue 5: Tribunal fees

72. The rent repayment order was in a considerable sum. However, the Tribunal found that the Applicant had raised several allegations about relatively trivial matters and others had been exaggerated. These matters added nothing to the application and in fact somewhat obscured the main issues. The Tribunal was satisfied that it should order the First Respondent to reimburse part of the Tribunal fees incurred, but that the Applicant should also bear some of the cost of the proceedings. The Tribunal decided that the First Respondent should reimburse the Applicant £165 (50% of the £330 fees incurred).

73. Accordingly the First Respondent was ordered to pay a total of £2,603.74.

74. The Tribunal anticipates the parties agreeing that this sum will be set-off against the arrears.

Judge M. Hunt

13 August 2025 (as amended on 23 August 2025 to correct a typographical error in accordance with the “slip rule” – Rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. 50% of the Tribunal fees had been recorded as £115, whereas that in fact amounts to £165).