



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

Case reference : **LON/00AN/HMF/2025/0877**

Property : **Flat 13, Block D, Peabody Estate, Lillie Road, London SW6 1UN**

Applicant : **Ms Agatha Agarwal**

Representative : **Mr James Cairns, Justice for Tenants**

Respondent : **Ms Sara Jacobs**

Representative : **I/P**

Type of application : **Rent Repayment Order – s.72(1) Housing Act 2004**

Tribunal members : **Judge Tagliavini
Ms C Barton MRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **27 May 2026**
Date of decision : **8 June 2026**

DECISION

Decisions of the tribunal

- (1.) The tribunal finds the applicant has proved the respondent has committed an offence under s.72(1) of the Housing Act 2004 and makes a Rent Repayment Order ('RRO') in the sum of **£3,074.85** Such sum to be paid within 14 days of the date of this decision.

- (2.) The tribunal makes an order requiring the respondent to pay the sum of **£228** in respect of the application and hearing fee paid by the applicant. Such sum to be paid to the applicant within 14 days of the date of this decision.
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The application

1. This application is being made under s.41 of the Housing and Planning Act 2016 for the offence of having control of, or managing, an unlicensed HMO at **Flat 13, Block D, Peabody Estate, Lillie Road, London SW6 1UN** ('the property') under Part 2 s.72(1) Housing Act 2004 which is an offence under s.40(3) of the Housing and Planning Act 2016. The applicant seeks a RRO in the sum of £5,917.80 for the period 27/08/2024 to 31/03/2025.

The background

2. The property comprises a three-bedroom self-contained flat with a shared kitchen and bathroom located in a block of flats. The applicant lived at the Property from 27th of August 2024 until 31st March 2025 under A Flat Mate Room Rental Agreement dated 20/08/2024 at a rent of £960 per month (inclusive of gas, electric, water, council tax. Wi-Fi, grounds maintenance. During her period of occupation the property was also occupied by:
 - (i) Udari Kasunhari who lived at the Property from 1st September 2024 and continued to reside at the Property after the applicant moved.
 - (ii) Phoebe Maunder lived at the Property before the applicant moved in until 30 September 2024. Khushi Handa replaced Phoebe and lived at the property from 1st October 2024 and continued to reside at the property after the applicant moved out.
3. From time to time the respondent together with their partner Bobby and their daughter visited the property and stayed in the living room during their visits thereby depriving the applicant of its use.
4. Throughout the period of her occupation, the applicant paid £5,917.80 to the respondent. The respondent is the assured shorthold tenant of Peabody (the landlord) under a Tenancy Agreement that commenced on 31/07/2017.
5. The property is situated within an additional licensing area as designated by the London Borough of Hammersmith and Fulham. The additional licensing scheme came into force on 5 June 2022 and will cease to

operate on 4 June 2027, The premises met all the criteria to be licensed under the said borough-wide additional licensing designation and does not qualify for any licensing exemptions.

The hearing

7. An oral hearing was held on **27 June 2026**, at which the applicant was represented by Mr James Cairns of Justice for Tenants. The respondent appeared in person. The tribunal was provided with hearing bundles from both parties.
8. During the hearing, the respondent conceded she had let a room at the property for the period for which the RRO is claimed. The respondent accepted that rent had been paid in full and on time by the applicant. The respondent also conceded she had also let two other rooms to two other persons during the period for which the RRO is claimed. However, the respondent asserted as the property was occupied by her main or principle home, she was not required to obtain a licence as a resident landlord as she would:
 - (i) Keep personal belongings at the property
 - (ii) Maintain furniture and household items
 - (iii) Return regularly for work and personal reasons
9. The respondent asserted the arrangements were informal and intended to contribute towards household costs/rent. The respondent also asserted she retained rights of access to all areas, including bedrooms as reflected in the letting agreements.

The tribunal's reasons

9. In reaching its decision the tribunal took into account all of the oral and documentary evidence relied upon by both parties. The tribunal finds the applicant has proved so that the tribunal is sure the respondent has committed the alleged offence under s.72(1) of the Housing Act 2004 which states:

(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.
10. The tribunal finds the respondent granted exclusive possession of one room to the applicant with shared use of the kitchen and bathroom/w.c. and received the rent paid to her by the applicant. The tribunal finds the respondent did not occupy the property as her main or principal home and that her visits were infrequent and relied on her being able to access the living room over which she had granted shared use to the other

occupiers. Therefore, the tribunal finds the respondent was the person having control of and the person managing the subject property as the respondent's landlord and that the applicant was granted an assured shorthold tenancy with exclusive possession of one room at a rent of £960 per month inclusive of all utilities and council tax.

11. In any event, the tribunal finds the respondent cannot rely on the exemption from licensing requirements provided under Schedule 14(6)(1) of the 2004 Act which provides that licensing does not apply to:

Any building which is occupied only by persons within the following paragraphs—

(a) one or more persons who have, whether in the whole or any part of it, either the freehold estate or a leasehold interest granted for a term of more than 21 years;

(b) any member of the household of such a person or persons;

(c) no more than such number of other persons as is specified for the purposes of this paragraph in regulations made by the appropriate national authority

12. Under The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, the limit under Schedule 14(6)(c) is two persons. The respondent conceded the property was let to three other persons and that she was an assured shorthold tenant of the property. Therefore, the respondent is not able to rely upon the exemption provided under the 2004 Act.

13. The respondent asserted that, if found, any breach:

- (i) It was not deliberate
- (ii) It occurred in a highly mitigating context
- (iii) It should be treated as a low-culpability case
- (iv) I remain willing, even at this stage, to engage in reasonable discussion regarding any outstanding deposit matters.

14. The tribunal finds the respondent has failed to make out a defence of 'reasonable excuse.' The tribunal finds that the respondent voluntarily let the property to others and had done so for a considerable period of time. Although, the respondent made enquiries of her landlord Peabody,

as to whether she was entitled to take a lodger, she made no effort to inform herself of her responsibilities as a landlord but continued to receive rent in addition to using the property for her personal use on the infrequent occasions she needed to stay in London. The tribunal finds the respondent did not inform her landlord of her prolonged absences from the property and chose not to make enquiries as whether she was required to obtain a license when letting the property to three persons.

Quantum

12. In determining the quantum of the RRO payable the tribunal had regard to *Acheampong v Roman* [2022] UKUT 239 (LC) and s.44(4) of the Housing and Planning Act 2016 which states:

(4) In determining the amount the tribunal must, in particular, take into account—

(a) the conduct of the landlord and the tenant,

(aa) the amount of any rent received by the tenant in respect of the period mentioned in the table in relation to the housing let to the tenant,

(b) the financial circumstances of the landlord,

(c) whether the landlord has at any time been convicted of or received a financial penalty in respect of, an offence to which this Chapter applies, and

(d) whether the landlord has at any time had a rent repayment order made against them.

13. Mr Cairns conceded that the tribunal should make a deduction of £183 per month as the applicant's contribution to utilities which were included in the rent providing a total of £1,098. He submitted that this sum should be deducted from the rent paid for the relevant period leaving a reduced sum of £4,099.80.
14. No Universal Credit/Housing Costs had been received by the applicant and therefore, the tribunal were not required to make any deductions in this respect.
15. The tribunal finds the respondent conduct towards the applicant's conduct has been of a very low standard in her attempt to create a 'sham' licence; her failure to inform herself of her responsibilities as a landlord in respect of providing the necessary electrical and gas safety certificates; failing to protect the applicant's deposit and by breaching the covenant of quiet enjoyment by her occasional occupation of the living room in the property with members of her family without regard

to the applicant's rights thereby excluding the applicant's right to use it for her own enjoyment.

16. The tribunal finds the applicant paid the rent due on time and in full throughout the period of her occupation.
17. The respondent provided no documentary evidence of her financial circumstances but told the tribunal she was currently living with her sister in the southwest of the UK; was in receipt of Universal Credit; owned no other properties; was currently continuing to let the subject property to three tenants.
18. The tribunal also took into account the fact, the respondent had received a Financial Penalty from the London Borough of Hammersmith and Fulham in the sum of £1,300 for failing to obtain the required licence.
19. No previous rent repayment order had been made against the respondent.
20. Having regard to the above factors the tribunal determines the respondent is required to pay 75% of the sum claimed of £4,099.80 (after deductions for utilities etc.) Therefore, the tribunal makes an order for the payment of a RRO in the sum of £3,074.85. Such sum to be paid to the applicant within 14 days of the date of this decision.

Name: Judge Tagliavini

Date: 8 June 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 should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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

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

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

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