



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

Case Reference : **LON/00AL/HMF/2025/0885**

Property : **249 Woolwich Road, London, SE10 0RN**

Applicants : **Nurul Hassan Jani Syed (1)
Yamini Bellamkonda (2)**

Respondent : **Mr Xi Cai**

**Type of
Application** : **Application for Rent Repayment Order
under the Housing and Planning Act
2016**

Tribunal Members : **Tribunal Judge H Lumby
Mr S Wheeler MCIEH CEnvH**

Venue : **10 Alfred Place, London WC1E 7LR (by
CVP)**

Date of Hearing : **22nd May 2026**

Date of Decision : **16th June 2026**

DECISION

Decision of the tribunal

The Applicants' application for a rent repayment order is dismissed.

Introduction

1. The Applicants have applied for a rent repayment order against the Respondent under sections 40-44 of the Housing and Planning Act 2016 ("**the 2016 Act**"). The application was received on 30th July 2025.
2. The basis for the application is that the Respondent was controlling and/or managing an unlicensed HMO which was required to be licenced under Part 2 of the Housing Act 2004 ("**the 2004 Act**") under an Additional Licensing Scheme operated by the London Borough of Greenwich at a time when it was let to the Applicants but was not so licensed and that he was therefore committing an offence under section 72(1) of the 2004 Act.
3. The Applicants' claim is for repayment of rent paid during the period from 1 July 2024 to 30 June 2025, amounting to £16,200.
4. The Property is located on the upper floor of a building, above a commercial unit. It comprised of three bedrooms together with communal bathroom and kitchen facilities. One of these bedrooms was let to the Applicants from 1 August 2023 until 11 July 2025. The bedroom contained its own private kitchen and bathroom.
5. The tribunal was provided with a bundle by the Applicants running to 51 pages, a further bundle by the Respondent consisting of 36 pages, a 28 page reply from the Applicants together with skeleton arguments from both sides. The contents of all these documents were noted by the tribunal. The tribunal also noted that both sides appeared to have utilised AI to assist with the presentation of their cases; whilst this is not an issue per se, the affect it had was that the arguments and evidence presented ignored critical areas, in particular when the Greenwich Additional Licensing Scheme began, what it provided and any evidence of the other occupiers.
6. The hearing was held online, using the tribunal's CVP system. Mr Syed appeared for the Applicants and gave evidence as well as making submissions. His wife (Ms Bellamkonda) did not attend but was understood to be nine months' pregnant so her absence was understandable. The Respondent also appeared in person and gave evidence and made submissions, using a Mandarin language interpreter. There were also two observers.

Relevant statutory provisions

7. The relevant statutory provisions are set out in the Schedule to this decision.
8. The burden is on the Applicants to demonstrate beyond all reasonable doubt that an offence was committed on at least one identified date between 1 July 2024 to 30 June 2025. If they can satisfy that test, the Applicants need to demonstrate on the balance of probabilities that the relevant offence continued to be committed throughout the period claimed (*Williams v Parmar* [2021] UKUT 244 (LC)). Accordingly, if the Applicants cannot demonstrate beyond all reasonable doubt that the offence was committed on a single, identified day, their application must fail.
9. In addition, section 41 of the 2016 Act provides that a tenant may only apply for a rent repayment order if (a) the premises were let to the tenant when a relevant offence was committed and (b) that offence was committed in the 12 months preceding when the application was made. The application in this case was received on 30 July 2025 so the offence must have occurred in the previous 12 months ending on that date, i.e. in the period from 31 July 2024 onwards. Accordingly, this means that the Applicants have to demonstrate beyond all reasonable doubt that an offence was committed on a single, identified day between 31 July 2024 and 30 June 2025.

Alleged Offence

10. The Applicants argue that the Property was an unlicensed HMO on the basis that it was rented to three or more people who form more than one household during the relevant period (here being 1 July 2024 to 30 June 2025). There is no evidence that there was a licence in place at any point during this period; the Applicants say a licence was required because of the Greenwich Additional Licensing Scheme.
11. No copy was provided of the Greenwich Additional Licensing Scheme or evidence provided as to when it commenced or as to its terms. Mr Syed pointed to a letter dated 22 October 2025 from Terry Hall at Greenwich Borough Council. This provides:

“I conducted a site visit to 249 Woolwich Road, Greenwich, London SE10 0RN on 23 June 2025. During the inspection, it was determined that the property falls within the scope of the Additional Licensing Scheme. At the time of the visit, no valid license had been issued for the premises.”
12. This is sufficient evidence that the scheme applied to the Property on that date (23 June 2025) but the Applicants rely on an unsupported supposition for any earlier or later dates. In addition, the council do not state it was occupied as an HMO on that date.

13. The Applicants in their statements contend that the Property was fully occupied throughout the relevant period. The Respondent in evidence accepted that it was “mostly occupied”. Mr Syed conceded that there may have been some periods of less than full occupancy but relied on Mr Cai’s evidence that it was mostly occupied. However, he had no evidence of actual occupancy or the basis of that occupancy; he could not identify any specific date when there was full occupancy that he could evidence.
14. The tribunal considered this evidence. As referred to above, it was necessary for the Applicants to demonstrate a single specified date beyond all reasonable doubt when the offence was committed. They had demonstrated that the Greenwich scheme applied on 23 June 2025 and there was no licence on that date. No evidence of other dates was provided.
15. However, more importantly, there was no evidence that the Property was occupied by three persons forming more than one household, either on 23 June 2025 or on any other identifiable date. The words “mostly occupied” do not allow a specific date to be identified with certainty. Even if it could, there is no evidence to suggest that these other occupiers were occupying as their sole or main residence.
16. The tribunal is not therefore satisfied beyond all reasonable doubt of any date between 31 July 2024 and 30 June 2025 when the Property was occupied as an HMO. It cannot therefore find that the Respondent committed the offence of controlling and/or managing an unlicensed HMO which was required to be licenced pursuant to section 72(1) of the 2004 Act on those dates. This means that the Applicant is not entitled to apply for a rent repayment order on this basis.
17. The question of whether the Respondent was controlling or managing the Property therefore becomes academic and so the tribunal has not considered it further.

Tribunal determination

18. The tribunal determines that it is not satisfied beyond all reasonable doubt that the Respondent has committed an offence entitling the Applicant to apply for a rent repayment order.
19. The Applicants’ application for a rent repayment order is therefore dismissed.

Application for reimbursement of Tribunal fees

20. The Applicants have applied for the Tribunal’s application and hearing fees to be refunded by the Respondent.

1. In this case, the Applicants have not been successful in their application. Given this, the Tribunal determines that it is not just and equitable in the circumstances for the Respondent to be ordered to pay the fees paid to the tribunal for bringing this case. The Applicants' application is therefore refused.

Name: Judge H Lumby

Date: 16th 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 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).

SCHEDULE

Relevant statutory provisions

Housing and Planning Act 2016

Section 40

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord has committed an offence to which this Chapter applies.
- (2) A rent repayment order is an order requiring the landlord under a tenancy of housing in England to – (a) repay an amount of rent paid by a tenant ...
- (3) A reference to “an offence to which this Chapter applies” is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

	<i>Act</i>	<i>Section</i>	<i>general description of offence</i>
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO

6		section 95(1)	control or management of unlicensed house
7	Housing and Planning Act 2016	section 21	breach of banning order

Section 41

- (1) A tenant or a local housing authority 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.

Section 43

- (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 41.
- (3) The amount of a rent repayment order under this section is to be determined in accordance with – (a) section 44 (where the application is made by a tenant) ...

Section 44

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.
- (2) The amount must relate to rent paid during the period mentioned in the table.

<i>If the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to rent paid by the tenant in respect of</i>
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

- (3) 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 that period, 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.

Housing Act 2004

Section 72

- (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 ... but is not so licensed.
- (4) In proceedings against a person for an offence under subsection (1) ... it is a defence that he had a reasonable excuse ... for having control of or managing the house in the circumstances mentioned in subsection (1)

Section 263

- (1) In this Act “person having control”, in relation to the 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.

(3) In this Act “person managing” means, in relation to premises, 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 ...

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments