



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

Case reference : **LON/00BE/HMF/2025/0905**

Property : **Flat 30, Dawes House, Orb Street,
London, SE17 1RE**

Applicants : **(1) Siani Sentil Kumar
(2) Charlotte Smith and
(3) Emily Cramp (aka Alex Cramp)**

Representative : **Ms Eva Sheratt, Justice for Tenants**

Respondent : **Ms Munazza Rafique**

Representative : **Mr Karol Hart of Freemans solicitors**

Type of application : **Rent Repayment Order**

Tribunal members : **Judge Tagliavini
Mr J Naylor FRICS FTPI**

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

Date of decision : **20 June 2026**

DECISION

The tribunal's decision

- (1) The tribunal finds the applicants have failed to prove the offence alleged was committed in the period of 12 months ending with the day on which the application is made. The tribunal finds the application for a rent repayment order has been made 'out of time' and it is dismissed.
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The application

1. This is an application for a Rent Repayment Order (RRO) , made to the tribunal on 11 August 2025, under s.41 of the Housing and Planning Act 2016, for the respondent's alleged offence of having control of, or managing, an unlicensed HMO, under Part 2 s.72(1) Housing Act 2004 which is an offence under s40(3) of the Housing and Planning Act 2016.
2. The total amount of rent Siani Senthil Kumar is seeking to recover, on behalf of themselves and the other applicants, is £29,009.68 for the amended period October 2023 to 10 August 2024 ('the relevant period'), as the rent was paid from the bank account of Siani Senthil Kumar.

Background

3. The rented property was situated within an additional licensing area as designated by London Borough Southwark which came into force on 1 March 2022 and will, unless extended, cease to have effect on 1st March 2027.
4. The subject premises at **30 Dawes house, Orb Street, London SE17 1RE**('the property') was a ground floor three-bedroom flat with a shared kitchen and bathrooms. The applicants were tenants of the property under an Assured Shorthold Tenancy for a term of 12 months with effect from 29/08/2023 at a rent of £2,773.33 per month. The applicants asserted during the relevant period for which the RRO is claimed, the property was occupied by at least three persons living in two or more separate households who occupied the property as their main residence. The applicants asserted they were full-time students undertaking full-time courses of further or higher education during the tenancy.
5. As full-time students, the applicants' patterns of overnight stays varied at times; however, they remained in occupation throughout the tenancy and, for the relevant period that occupation was consistent with section 259(2) of the Housing Act 2004 i.e. a person is to be treated as occupying as their residence where it is occupied for the purpose of undertaking a fulltime course of further or higher education.
6. The applicants asserted the premises was occupied as follows:

Room1: Emily Cramp lived at the Property from September 2023 to August 2024.

Room 2: Siani Senthil Kumar lived at the Property from September 2023 until August 2024

Room 3: Charlotte Smith lived at the property from September 2023 to August 2024.

7. The applicants asserted that an appropriate HMO licence was not held during the relevant period of 28/08/23 (amended to October 2023) - 10/08/24 and no licence application was made at any point during the applicants' tenancy.

The law

8. The respondent is eligible to have a Rent Repayment Order made against them according to Section 263 of the Housing Act 2004, which states:

Meaning of "person having control" and "person managing" etc.

(1) In this Act "person having control", in relation to 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

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(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; 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; or

(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;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

9. The applicants asserted that Munazza Rafique is the appropriate respondent to this application because they are listed as the immediate Landlord in the ASTs and are the beneficial owner of the property as shown by the land registry title deed. They are, therefore the 'person having control' of the premises as they are the person who received or would so receive the rack-rent if the premises were let. The respondent is also believed to have been a person managing the subject property as defined by section 263(2) HA 2004 as they were the owner/lessee of the subject property who received rent from the applicants and is therefore a 'person managing' the property.
10. The respondent did not seek to challenge their status as the 'person having control or the person managing the premises' but asserted the application had been made 'out of time' because Section 41 of the Housing and Planning Act 2016 states:

(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:

...

(b) the offence was committed in the period of 12 months ending with the day on which the application is made.

The hearing – preliminary matters

11. At the hearing of the application, the applicants were represented by Ms Eva Sherratt of Justice for tenants. The respondent attended the hearing and was represented by Mr Karol Hart of Freemans solicitors. Ms Kumar and Ms Cramp also attended and gave oral evidence to the tribunal. Ms Smith neither attended the tribunal nor provided a written witness statement in support of her application. Both parties relied on the hearing bundles they had provided to the tribunal. At the start of the hearing the respondent made an application to rely on late served evidence and submitted that the applicants were not prejudiced by this as it did not contain any documents with which they were not already familiar. Although Ms Sherratt objected to this and made her own application

seeking to debar the respondents from the proceedings, asserting it was ‘not fair’ to allow the respondent to participate and rely on such late served hearing bundle although the applicants had in fact served a Reply to the respondent’s case and were fully aware of the issues raised.

12. In the absence of any ‘real’ prejudice caused to the applicant, the tribunal determines it is reasonable to (i) allow reliance on the late served hearing bundle and (ii) refuse the application to debar the respondent.

The tribunal’s reasons

13. During the hearing, the tribunal heard the oral evidence of Ms Kumar and Ms Cramp, who were cross-examined on their evidence by Mr Hart. Ms Smith did not attend and had failed to make a witness statement although had provided a signed Statement of Truth which included the assertions that:

12. The premises was occupied by students.

12.1. The Applicants were full-time students undertaking full-time courses of further or higher education during the tenancy. The tenancy term ran from 28 August 2023 to 10 August 2024.

12.2. Throughout the tenancy, the Applicants occupied the Property as their rented accommodation. Each Applicant remained in occupation of their respective bedroom and the shared areas for the duration of the tenancy and retained their belongings at the Property. All Applicants fully vacated the Property and removed their belongings in full on 24 August 2024.

12.3. As full-time students, the Applicants’ patterns of overnight stays varied at times; however, they remained in occupation throughout the tenancy and, for the relevant period, the Property was their only or principal home, consistent with section 259 of the Housing Act 2004 (a person is to be treated as occupying as their residence where it is occupied for the purpose of undertaking a fulltime course of further or higher education).

12.4. The premises was occupied as follows by the following students:

Room1: Emily Cramp lived at the Property from September 2023 to August 2024 moved in September 2023; She moved her belongings out on 24th August 2024.

• Room 2: Siani Senthil Kumar lived at the Property from September 2023 until August 2024

- *Room 3: Charlotte Smith lived at the property from September 2023 to August 2024.*

14. An HMO is defined in the Housing Act 2004 as:

Section 254(2) of the Act states:

...

(2) 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;

15. Section 259 of the Act states

(a) This section sets out when persons are to be treated for the purposes of section 254 as occupying a building or part of a building as their only or main residence.

(b) A person is to be treated as so occupying a building or part of a building if it is occupied by the person:

(2) as the person's residence for the purpose of undertaking a full-time course of further or higher education

...

16. Despite the issue of the continuing student status having been relied upon by the applicants and expressly challenged (at least in part) by the respondent, none of the applicants provided any documentary evidence of their initial or continuing status as students, or evidence of the period/duration of their course of study. This was particularly relevant to the challenge by the respondent in

respect of the period July/August 2024. On cross-examination of Ms Kumar and Ms Cramp by the respondent, it was accepted by them that academic terms usually ended at the end of May of an academic year. Ms Kumar accepted she had returned to her family home for the summer 2024. Ms Cramp accepted that as of 1 June 2024 she had completed her course of study, was in full-time employment and no longer a student. No evidence was provided by or on behalf of Ms Smith as to her student status other than in the witness evidence of Ms Kumar and Ms Cramp and no evidence was provided as to whether she had continued with her course of study after she returned home for the summer holidays in June 2024, or if she had re-enrolled at the start of the new academic year and had thereby continued to keep active her 'student' status.

17. The tribunal finds that by analogy to exemptions from the liability to pay Council Tax, a student remains a student throughout the period of their course including weekends and holidays. However, when the period of the course of study ends, whether 1, 2, 3, 4 or more years, they are no longer considered to be a student. Enrolment and re-enrolment at the start of every academic year serves as the administrative act of confirming status as a student for the next period of their study. A failure or inability to re-enrol at the appropriate time and before the completion of the course of study would therefore lead to a loss of student status.
18. Applying this reasoning to the applicants, the tribunal is satisfied that Ms Kumar was a full-time student in higher or further education throughout the whole period of the tenancy. The tribunal finds Ms Cramp was a full-time student during the tenancy until 31 May 2024 when her course of study concluded. The tribunal finds Ms Smith was a full-time student at the commencement of the tenancy. While the tribunal accepts Ms Smith continued to make her contribution to the rent throughout the period of the tenancy, it also finds there was a substantial, often increasing balances maintained in her bank account. These were unexplained due to redactions made on the statements and the absence of any written or oral evidence by Ms Smith. Therefore, for the period 1 June 2024 to 24 August 2024, due to the absence of any or any persuasive evidence, the tribunal is unable to determine, so that it is sure, that Ms Smith remained in occupation of the property or remained a full-time student after 1 June 2024.
19. The respondent submitted that:

...for the above-mentioned reasons that the applicants RRO application against the Respondents should be struck out as per either/both Rule 9(2)(a) or 9(3)(d) and (e) of the rules, as the property cannot be found to be an HMO during July and August 2024, as required by 72(1) of the Act, and therefore they cannot find any offence has been committed, within the period of 12 months prior to the RRO Application being made on 11th August 2025.

20. It was accepted by Ms Cramp and it is found by the tribunal that Ms Cramp remained a full-time student until 31 May 2024 and thereafter lost her student status having completed her course of study. However, although the tribunal finds evidence of Ms Smith having made payments to Ms Kumar which resembled her share of the rent, the tribunal is unable to determine whether Ms Smith was in occupation of the premises throughout the period of the rent repayment order claimed as there is no other documentary evidence that she was in fact continuing to live at the subject property including texts and WhatsApp chat.
21. In the absence of any or any sufficient evidence in respect of the continuing occupation or student status of Ms Smith after 31 May 2024, the tribunal finds the subject property was occupied by only Ms Kumar and Ms Cramp as at that date and therefore was not being occupied as an HMO during the period 1/06/2024 to 28/08/2024. Although the tribunal finds that the applicants have proved beyond reasonable doubt an offence was committed in the period October 2023 to 31 May 2025, in the absence of evidence from or about Ms Smith's continuing status as a full-time student after 31/05/2024, the tribunal is unable to determine whether the property was being occupied by more than 2 persons from 01/06/2024 or that the student exemption continued to apply to Ms Smith during that period.
22. The tribunal accepts the respondent's assertion that:
- In essence, the Applicants have not demonstrated that the property was a House of Multiple Occupancy as required under Section 254 of the Housing Act 2004 between the periods July 2024 and August 2024.*
23. As the application for a RRO was made to the tribunal on 11 August 2025, the tribunal finds this is more than 12 months from the last date the alleged offence was being committed i.e. 31 May 2024 and is therefore 'out of time.'
24. The tribunal is therefore not required to consider any issue of 'reasonable excuse' or 'quantum' and declines to do so.
25. The tribunal finds the applicants have failed to prove the offence alleged was committed in the period of 12 months ending with the day on which the application is made. The tribunal finds the application for a rent repayment order has been made 'out of time' and it is dismissed.

Name: Judge Tagliavini

Date: 20 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).