



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

Case reference : LON/00AJ/HMG/2025/0671

Property : Flat 6A, 36 High Street, Acton, London W3 6LG

Applicant : Julie Daniele Monique Lanson-Guilbert

Representative : Justice for Tenants

Respondent : T A S B Investments Limited

Representative : Mr A Sahni

Type of application : Rent Repayment Order

Tribunal member(s) : Judge Dutton
Mr C P Gowman MCIEH BSc

Venue : 10 Alfred Place, London WC1E 7LR by video

Date of decision : 3 July 2026

DECISION

The tribunal determines that the Respondent had at the time of the alleged offence duly made an application for a licence in respect of the house and that notification was still effective and that it is entitled to rely on the defence set out at S95(3)(b) Housing Act 2004 and that therefore no Rent Repayment Order shall be made.

Background

1. On 20 August 2025 the Applicant, through Justice for Tenants (JfT) sent to the tribunal an application seeking a Rent Repayment Order (RRO) against the Respondent, T A S B Investments Limited, the owner of the property, Flat 6, 36 High Street, Acton, London W3 6LG (the Property). That company was also the landlord shown on a tenancy agreement entered into between the parties on 24 November 2023 for a period of 12 months, but with a break clause after 6 months.
2. Directions were issued on 12 January 2026, which have been complied with, and the matter came before us as a video hearing on 30 June 2026. In attendance were the Applicant, who is presently in Australia and Eva Sherratt of JfT. Mr Sahni represented the Respondent.
3. Prior to the hearing we had been provided with a bundle running to some 99 pages being the Applicant's case, a shortish response from the Respondent and a reply dated 15 May 2026 from JfT. On the day before the hearing a skeleton argument on behalf of the Applicant was lodged with us. We have carefully noted the contents of these papers.
4. The Applicant seeks an RRO for the period of her occupancy, which is from 24 November 2023 to 20 September 2024 (the relevant period) in the sum of £8,729.58, an amount which, at the hearing, the Respondent accepted was arithmetically correct.

The law

The law applicable to this matter is to be found in the Housing Act 2004 and the Housing and Planning Act 2016.

S 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.

(2) A person commits an offence if—

(a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 90(6), and

(b) he fails to comply with any condition of the licence.

(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 62(1) or 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), or

(b)for failing to comply with the condition,

as the case may be.

Under the Housing and Planning Act 2016 there is at section 43 the power for the FTT to make an RRO

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).

(2)A rent repayment order under this section may be made only on an application under section 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);

(b)section 45 (where the application is made by a local housing authority);

(c)section 46 (in certain cases where the landlord has been convicted etc).

5. There is no suggestion that the Applicant was not entitled to make an application under s41 of the 2016 Act.

Hearing.

6. At the start of the hearing, we heard from the Applicant. She had provided us with a statement and a document headed “Full details of the alleged offence”, the contents of which we noted. The Full details set out the offences it as said the Respondent had committed confirming that the Property was in a selective licensing area for Ealing which had come into effect on 3 January 2023 and expired 2 January 2028. This is not in

- dispute. It was said that there was no licence in place during the relevant period and that no licence application had been made.
7. The document went on to say that the Respondent was the person in control of the Property and was therefore the appropriate Respondent. A copy of the HMLR Property Register was produced to show the Respondent as the owner and had been since 2017.
 8. Details of the rent paid were set out and reference made to the conduct of the parties, which we noted. The document went on to say that the Respondent had breached the council's licence conditions, although these were not provided to us.
 9. In her witness statement the Applicant described the flat as being a studio flat on the first floor of an old building which had recently been refurbished. Entry to the flat she occupied was through a door marked "flat 6" and inside two separate studio flats, 6A and B. Her flat, A, was self-contained. She confirmed she moved in on 24 November 2023 but that the flat had not been completely refurbished by then. She says that she tried to sign up for Council tax but was not able to do so because the Council could not find the flat as registered with them.
 10. Under the heading 'Household Dynamics' the Applicant said, "*There was other tenants in the building but never met in person or properly*". She went on to set out areas of concern which centred on a gap between the bottom of the door and floor, which appeared to have contributed to alleged bed bug issues and woodlice. She also complained that the Respondent had entered her flat without permission to take photographs prior to reletting the property, she having given notice to quit under the break clause in the letting agreement.
 11. In her evidence in chief, she told us that at the time she went into occupation the next door flat (B) was under construction, but she believed the works had been completed by the end of December 2023 and that tenants moved in in January 2024. Prior to that she said she had made enquiries for a friend about renting flat B and was told it would be ready shortly.
 12. The Applicant told us she had met with the tenants of flat B who had showed her round and indicated they wished the landlord to install some form of TV bracket.
 13. Concerns were raised about the Respondent ensuring her deposit was safely secured, although she did accept that she had received her deposit back. We heard more about the issues with Council tax.
 14. We asked the Applicant to explain the apparent anomaly between her statement about not seeing other persons as set out in her witness

statement and the evidence she gave at the hearing concerning the other 'tenants'. It seemed that she was mentioning the whole building. In response to a question by Eva Sherratt she explained the lack of evidence concerning the occupancy of flat B on the basis that she did not think it would have an impact.

15. In the Respondent's bundle we were provided with a witness statement of Mr Sahni who confirmed he was a joint director of the respondent and also of Ashley Samuel the managing agent for the Property. He confirmed the layout of the Property which had originally been configured as a one bedroomed flat. At the time the applicant moved in he told us that only flat 6A had been completed and was habitable. He referred to the Council tax position and that the applicant would contribute half the amount payable as the other flat was not being occupied.
16. As to licensing he told us that he had made an application for a selective licence for flat 6 in February 2023, relating to the whole property. As there was only one tenant in occupation, he was of the view that a licence for Flat 6 would cover the situation.
17. He told us that the applicant was the first occupier of the newly refurbished flat (6A) and produced an invoice from Gregory Building Limited dated 30 November 2023 showing some works to the property in preparation for a studio flat at a cost of £2,500. He told us that it related to flat B, although there was nothing on the invoice to sustain this. However, Mr Sahni told us that the Respondent had decided not to continue with the refurbishment as no planning had been sought and the costs of the works were too high. He thought in any event that the licence would have covered two flats.
18. Asked why he had made the application for flat 6 and not two separate ones he told us that the online application form did not allow of subdivision. He said he had made the application for the licence, which was received by Ealing Council on 2 February 2023, as evidenced by confirmation from the Council dated that date and as evidenced by the application itself, both of which appear to have been lodged with the Tribunal by JfT when the original RRO application was made. A licence was granted, valid from 4 November 2025 to 3 November 2026. Asked why it had taken so long he told us there was a great back log at the Council. However, he did produce an email from the Council dated 15 October 2025 which stated
*"The licence dates are from the date the consultation period concludes and the decision to grant the licence is made.
Once an application is duly made, the property is able to be rented until the decision is finalised, and benefits from the protection against unlicensed property fines and rent repayment order".*

19. He told us that he believed he could proceed with one licence whether he had two flats or just the one. As the second unit had not been let at the time the licence was applied for and given the limits in the online application he proceeded as one and indeed that is how the Property is now being let. He confirmed that the two rooms shared heating, electricity and gas although both had kitchenettes and bathroom facilities.
20. In final submission to us Eva Sherratt mirrored her skeleton argument, whilst referring back to the reply made in May 2026. She raised a number of authorities, to which we were not in truth referred and asserted that the Respondent appeared to rely on the application having been made in February 2023 and subsequent correspondence purporting to back date the licence. We were reminded that the burden of proof, on the balance of probabilities rests with the respondent to prove its defence. Reference to the phrase “duly made” under s95(3) of the 2004 Act was put forward as part of the failure on the part of the Respondent to show when the application was made. Much is made of the Council’s inability to back date a licence.
21. Arising from the evidence at the hearing she said an offence had been committed when it is said another couple moved in flat B and that there was no reasonable excuse defence open to the Respondent. Her submission was that the licence would not cover two flats and that both would need to be licensed. This, she said, was confirmed by a Council email dated 1 October 2025.
22. She then went on to deal with issues concerning the quantum of the claim, the details of which we have noted. She was asked whether she had considered any of the authorities put forward by the Respondent, but she had not, although to be fair the Respondent had not provided copies of the authorities it sought to rely on.
23. The applicant interjected and told us that she had supplied JfT with some photographs of emails and of the flat B interior, taken, she said to pass to her friend who was interested in renting the other flat. None of these documents appeared in the papers we were supplied with.
24. Mr Sahni had little to offer other than to challenge the Applicant’s evidence at the hearing that she had met the people said to have been occupying flat B and to say that the deposit was secure at all times. He asked that the application be dismissed.

Decision

25. 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) (section 43 of the 2016 Act.) The burden of proving the offence rests with the Applicant. What evidence do we have?
26. We find that there is clear evidence that the Respondent applied for a selective licence in February 2023 and that a licence was granted in October 2025 running from 4 November 2025 to 3 November 2028 and that accordingly the application made in February 2023 must have been “duly made”. There is also clear evidence from the Council that they received the application and that they confirmed with the Respondent that from February 2023 they were, in effect, immune from committing the offence which is now before us.
27. The question then is whether the licence granted covers the use of the flat and whether there was usage, that is to say two units were being let, which would breach the terms of the licence. The Council indicated that would be the case, namely that if there were two flats a licence would be needed for both.
28. The only evidence we have from the Applicant is that which is contained in her witness statement, where she says *There was other tenants in the building but never met in person or properly*” and the evidence she gave at the hearing saying not only had she met the other purported occupiers of flat B but that they had invited her into the other flat. It is unclear why she did not correct this matter as she would have had ample time to do so, as her response was filed on 15 May 2026. It was said also that she had some photographs, which purported to show that the flat was habitable, taken to show to her friend. Again, these were not produced.
29. Mr Sanhi refutes the suggestion that at the relevant time the flat known as Flat B was separately let. He says that the Respondent withdrew from the conversion works, both as to costs and lack of planning. It would appear that since the Applicant left, the Respondent may be letting the property as one flat with two people in separate living accommodation but sharing services.
30. The suggestion made by JfT is that the Respondent relied upon the application purported to be made in February 2023 and the suggestion that the licence had been backdated to February 2023. Neither of these assertions are correct. There is clear evidence in the application itself and the confirmation issued by Ealing that an application for a selective licence had been made on 2 February 2023. As we indicated above it would seem that these documents were lodged with the Tribunal by JfT when the original application was submitted. The licence is not backdated but the Council did confirm unequivocally, by email on 15

October 2025 the Council that *“The licence dates are from the date the consultation period concludes and the decision to grant the licence is made.*

Once an application is duly made, the property is able to be rented until the decision is finalised, and benefits from the protection against unlicensed property fines and rent repayment order”

31. It is our finding that at the relevant time the Respondent had made an application for a selective licence for flat 6, which we find was only occupied by the Applicant. We accept that the licence cannot be backdated but there is, in our finding, no doubt that a proper application for a selective licence was made before the relevant period started and that therefore the Respondent has the benefit of the defence under s95(3)(b). The contradictions in the evidence from the applicant and the missing photographic evidence leads us to the conclusion that the Applicant has not discharged the burden of proof to satisfy us that an offence of controlling and or managing a House pursuant to s95(1) of the Housing Act 2004 has been proved beyond reasonable doubt. Accordingly, we dismiss the application.

Judge Dutton

3 July 2026