



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

Case reference : **BIR/00FN/HMK/2025/0015**

Property : **159A Fosse Road North, Leicester, LE3
5EZ**

Applicant : **Penina April**

Representative : **None**

Respondents : **Harvinder Kooner and Harminder
Kooner**

Representative : **Ms Amie Isaac – Howes Percival,
Solicitors**

**Type of
applications** : **Application for a rent repayment order
under section 41 Housing and Planning
Act 2016 (“the 2016 Act”)**

Tribunal members : **Judge C Goodall
Mr Wyn Jones FRICS**

**Date and place of
hearing** : **29 June 2026 by video**

Date of decision : **16 July 2026**

DECISION

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Background

1. On 16 June 2025, the Applicant made an application for a rent repayment order against the Respondents. It is not contested that the Respondents were at the material times the Applicants landlords, and the appropriate people against whom a rent repayment application should be made.
2. The Tribunal has jurisdiction to make a rent repayment order only where the Applicant can prove beyond reasonable doubt that the Respondents have committed one of the offences listed in section 40 of the 2016 Act. This case is based on the allegation that the Respondents have committed an offence under section 95(1) of the Housing Act 2004 (“the 2004 Act”).
3. Directions were issued which led to the production of hearing bundles from both parties. The Applicant also provided a supplementary document responding to the defence contained in the Respondents bundle. The application came on for hearing by video on 29 June 2026. The Applicant attended, assisted by a McKenzie friend called Coby. Mrs Koomer attended, represented by Ms Isaac from her solicitors, Howes Percival. Her son, Mr Aaron Isaac supported her. Mr Koomer did not attend.
4. The Respondents’ defence was that the application was submitted out of time.

Law

5. Section 41(2)(b) of the 2016 Act provides:

41 ...

(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.

6. Section 95 of the 2004 Act (as it was prior to 1 May 2026) provides:

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 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)).

Facts

7. The Applicant's tenancy commenced on 5 October 2022 for an initial period of 6 months at a rent of £700.00 per calendar month.
8. A selective licensing scheme was brought into effect by Leicester City Council ("the Council") for the area in which the property is situated on 10 October 2022.
9. The Respondents' case in their statement of case is that they applied for a selective licence on 25 March 2024. Mrs Koomer gave oral evidence expanding on this evidence to explain that the application was made through an internet portal to the Council on that date and the submission was acknowledged by emails from the Council timed at 5.06 and 5.08pm on that date (in the bundle). The emails stated that:

"Payment for your online application has been successfully received. Your application is currently being reviewed by the council and as soon as there has been any progress regarding your online application you will be informed by email."
10. Each of the two emails confirmed receipt of different amounts of fee. A total sum of £1,090.00 was acknowledged as having been paid.
11. In their document bundle, the Respondents included a screen shot of a text from Mrs Kooner to the Applicant dated 25 March 2024 giving her notice of the selective licensing application. The screen shot shows a response from the Applicant saying "Okay, thanks for letting me know." The Applicant denies that she either received the message or responded to it, but our view is that it is more likely than not that these messages are genuine.
12. The Applicant was invited to cross-examine Mrs Kooner on her evidence. The Judge explained that the crucial question for the Tribunal was whether the Respondents "duly made" an application for a selective licence on 25 March 2024. If the Applicant believed Mrs Kooner's evidence was wrong and that she had a reasonable basis for that belief, the Applicant needed to put that to Mrs Kooner so that the Tribunal could assess whether to accept Mrs Kooner's evidence, or any alternative

evidence about the date of the application for a selective licence put forward by the Applicant.

13. The upshot of this exchange was that the Applicant did not put any alternative evidence to Mrs Kooner and she accepted that she had no basis for challenging Mrs Kooner's evidence that an application for a selective licence was made on 25 March 2024.
14. We find that on 25 March 2024, the Respondents duly made an application for a selective licence for the property.
15. In a letter dated 19 September 2024, Leicester City Council confirmed that they had processed the selective licence application and "as we have received no representation within the statutory two-week consultation period, the licence ... comes into effect."
16. The licence is for the period 10 October 2022 to 9 October 2027. The licence itself has no date of issue on it.
17. Plainly, the Tribunal has not been supplied with intermediate correspondence between the parties and the Council leading up to the grant of the licence.
18. The Applicant included an email exchange of correspondence between her then advisers, Justice for Tenants, and the Council dated 11 December 2024, in which the Council were asked for the date the application was duly made, and for the start and end dates of the licence. The reply was that the application was duly made on 3 July 2024, and the licence dates were 10 October 2022 to 9 October 2027. The information was provided by an admin and business support officer.
19. Clearly, this reply contradicts our finding above that an application for a licence was duly made on 25 March 2024. In the absence of any evidence from either the writer or recipient of the 11 December 2024 email, we cannot conclusively resolve that contradiction, but we strongly suspect that 3 July 2024 was the date that the Council decided in principle that the licence should be granted, following which the statutory consultations on the issue of the licence required by Schedule 5 of the 2004 Act took place. We do not think that this was in fact the date the application for a selective licence was "duly made".
20. The application to the Tribunal for a rent repayment order was made on 16 June 2025.
21. Once the Respondents made an application for a selective licence, on 25 March 2004, they had a complete defence to the allegation that they were committing an offence under section 95 of the 2004 Act. The application for a rent repayment order was made more than 12 months after that date and was accordingly out of time.

22. The Applicant fell into error in her submission that liability for a rent repayment order continues until the property is properly licensed. Once an application for a licence is “duly made”, (see section 95(3) of the 2004 Act), provided the application remains effective, a rent repayment order based on an offence under section 95 of the 2004 Act cannot be made even if the application was being processed for a period of time after submission of the licence application.

Decision

23. The Applicant’s application for a rent repayment order is dismissed as it is out of time.

Costs

24. A general application for costs was made by the Respondents. There is no jurisdiction for this Tribunal to make a costs order unless the Respondents can show that Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 applies (“the Rules”).
25. If the Respondents wish to pursue a costs application, their attention is drawn to Rule 13(5). Any application for costs under Rule 13 should be supported by a Statement of Case provided to the Applicant and the Tribunal and must specify the provision under which the application is brought and the reasons for it. If under Rule 13(1)(b), the application should specify the unreasonable acts alleged and provide a form N260 specifying the amount of the costs sought.
26. If a Rule 13 costs application is brought, the Applicant shall, within 28 days of receiving the Respondent’s statement of case, provide a written statement of case in response to the Respondents and to the Tribunal.
27. Any application for costs will then be determined by the Tribunal without a hearing and on the basis of the parties’ statements of case. The parties will be notified of the Tribunal’s decision thereafter.

Appeal

28. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
First-tier Tribunal (Property Chamber)