



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

Case Reference : **MAN/00CH/HMC/2025/0003**

Premises : **17 Margaret Terrace, Highfield, Rowlands Gill,
NE39 2NG**

Applicant : **Harry Taylor**

Respondents : **(1) Mordechai Fisher
(2) Samuel Kohn**

Type of Application : **for a Rent Repayment Order under s.41(1) of
the Housing and Planning Act 2016**

Tribunal Members : **Judge P Forster
Mr William Reynolds**

DECISION

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Decision

The application is dismissed.

Mr Kohn was neither the landlord of the Premises nor the person to whom the improvement notices were addressed and is therefore not a proper respondent to the application.

The improvement notices relied upon by Mr Taylor, were not validly served on Mr Fisher, and did not become operative. Accordingly, the Tribunal is not satisfied that an offence under section 30(1) of the Housing Act 2004 was committed.

Introduction

1. The application is for a rent repayment order under s.41(1) of the Housing and Planning Act 2016 ('the 2016 Act').
2. The Applicant, Harry Taylor, was the tenant of 17 Margaret Terrace, Highfield, Rowlands Gill, NE39 2NG ('the Premises') which was let to him by the First Respondent, Mordechai Fisher, under an assured shorthold tenancy agreement dated 28 March 2024 for a fixed term of 12 months at a rent of £520.00 per calendar month.
3. The First Respondent is the freehold owner of the Premises and the landlord under the tenancy agreement. The Second Respondent, Samuel Kohn, is a director of Samco Lettings Ltd., engaged by the First Respondent to manage the Premises.
4. The Applicant seeks a Rent Repayment Order based on an alleged offence under s.30 of the Housing Act 2004 ('the 2004 Act') for failing to comply with an Improvement notice issued under ss.11 and 12 of the 2004 Act.
5. The hearing was held at Durham County Court on 15 July 2026. The Applicant represented himself, and the Respondents were represented by Mr Askins, Solicitor.

The Applicant's case

6. The Applicant's case is that the Premises was affected by significant defects which resulted in Gateshead Council serving improvement notices under the 2004 Act dated 14 June 2024 and 31 January 2025. The Applicant asserts that the landlord's failure to comply with the notices constituted offences capable of founding a Rent Repayment Order.
7. The Applicant relies upon findings of the Property Redress Scheme concerning the conduct of the Second Respondent. He points to findings that the agent: failed to provide the landlord's details when requested; attended the property without proper notice; communicated in an inappropriate manner; and failed to provide services with reasonable care and skill.
8. In a written statement, the Applicant summarises his position as follows: he moved into a property affected by rising damp and inadequate insulation; the agent failed to respond to the first improvement notice in time; the agent behaved in a discriminatory manner towards him; the landlord continued to employ the agent notwithstanding those matters; both Respondents should bear responsibility for the events leading to the application.

The First Respondent's case

9. The First Respondent contends that no Rent Repayment Order should be made against him. His primary case is that the improvement notices dated 14 June 2024 and 31 January 2025 were not validly served upon him, as they were sent to the Samco Lettings' business address and to its registered office, which was also the Second Respondent's home address respectively, rather than to his proper address. He submits that, as the notices were not properly served, they did not take effect and he could not have committed an offence under s.30 of the 2004 Act.
12. The First Respondent states that throughout the relevant period he lived in Gateshead which was his address for official correspondence. He says that he never resided at or conducted business from either the Samco Lettings address at 210 Prince Consort Road or its registered office address at 220 Alexandra Road and that he never authorised Gateshead Council to serve documents upon him at either address.

13. Mr Fisher says that he became aware of the two improvement notices only through Samco Lettings and did not receive copies of them directly. Upon learning of the notices, he instructed Samco to obtain contractors and carry out all works required to comply with them and also authorised the arrangement of temporary accommodation for the Applicant during the works.
14. In the alternative, the First Respondent argues that any failure to comply with the notices within the prescribed periods was due to matters outside his control. He maintains that all of the required remedial works were ultimately completed.

Second Respondent's case

15. The Second Respondent contends that the application against him should be dismissed because he is not the landlord of the Premises and has no ownership interest in it. He states that he is merely a director of Samco Lettings Limited, which acted as managing agent for the First Respondent. He argues that a Rent Repayment Order may only be made against a landlord and not against a managing agent or an officer of a managing agent.
16. Without prejudice to that position, he adopts the First Respondent's case that the improvement notices were not validly served.

Preliminary Issues

17. There are two preliminary issues to be determined before the Tribunal can consider whether an offence was committed under s.30 of the 2004 Act. They are:
 - whether the Second Respondent is a proper respondent to the application;
 - whether the improvement notices were validly served on the First Respondent;

The Second Respondent

18. A Rent Repayment Order can only be made against a landlord. Accordingly, where an application is based on a failure to comply with an improvement notice under section 30(1) of the 2004 Act, the Tribunal must be satisfied, beyond reasonable doubt, not only that the offence was committed, but that it was committed by the respondent landlord. If the person who failed to comply with the improvement notice was someone other than the landlord, that offence alone cannot found a Rent Repayment Order.

19. The Second Respondent was neither the landlord of the Premises nor the person to whom the improvement notices were addressed. It follows that the Second Respondent could not have committed the section 30(1) offence relied upon by the Applicant and he cannot be the subject of a Rent Repayment Order arising from that offence. Accordingly, the claim against the Second Respondent is dismissed.

Service of the improvement notices

20. The Applicant's case is that the improvement notices were served on Mr Fisher, that they were operative and that non-compliance with them provides the basis for his application for a Rent Repayment Order.
21. The First Respondent's case is that the notices were not validly served upon him, that they were not operative and therefore the application for a Rent Repayment Order must fail.
22. By s.30(1) of the 2004 Act: "where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it."
23. If an improvement notice is not validly served, it cannot become operative. The statutory timetable for an improvement notice runs from the date of service, and in the absence of service there is no valid notice capable of taking effect or being enforced.
24. The first notice, dated 14 June 2024, was addressed to Mr Mordechai Fisher, c/o Samco Lettings, 210 Prince Consort Road, Gateshead, NE8 4DX. This is the business address of Samco Lettings Ltd.
25. The second notice, dated 31 January 2025, was addressed to Mr Mordechai Fisher, 220 Alexandra Road, Bensham, Gateshead, NE8 4EB. This is Mr Kohn's residential address and the registered office of Samco Lettings Ltd.

26. The First Respondent's argument is that neither address was his proper address for service, because his residential address was 212 Alexandra Road, Gateshead, NE8 4EB and that he did not authorise service at either Samco Lettings' address or the Company's registered office address.
27. The Applicant's evidence is that the Council posted both notices to 17 Margaret Street. He says that he questioned the Council about this and they referred him to the address recorded for Mr Fisher on the Land Register.
28. Two addresses are recorded for Mr Fisher in the proprietorship register at the Land Registry; 17 Margaret Terrace and 212 Alexandra Road.
29. The purpose of the address for the registered proprietor on the Land Register is to provide an address at which notices and communications relating to the registered title may be served. It is the address nominated for the receipt of correspondence concerning the registered estate. Consequently, the fact that a particular address appears in the register may establish that it was given as an address for service, but not, without more, that the registered proprietor lived there.
30. There is no continuing obligation requiring a registered proprietor to ensure that the address on the register remains their current residential address. The consequence of failing to update the register is principally that notices served at the registered address may still constitute effective service for land registration purposes.
31. An Improvement Notice must be served in accordance with the statutory service provisions. For Housing Act 2004 notices, the relevant route is s.246(9) of the 2004 Act which applies s.233 of the Local Government Act 1972 to service of documents under the 2004 Act.
32. Under s.233 of the 1972 Act, a document may be served on a person by delivering it to him personally; leaving it at his proper address; or sending it by post to him at his proper address. For an individual, the "proper address" is ordinarily his last known address. Mr Fisher relies on this to argue that service on Samco Lettings' business address or on its registered office address was not service at his proper address.

33. The Tribunal was referred to Oldham Metropolitan Borough Council v Tanna [2017] EWCA Civ 50 ('Tanna') a case concerned with whether a notice pursuant to s.215 of the Town and Country Planning Act 1990 had been validly served. It is applicable to the service of improvement notices. The first issue on appeal was what was required by way of service on a person's "last known address" for the purposes of s.233 of the Local Government Act 1972.
34. The server of a notice must take reasonable steps to find out what the intended recipient's current address was. In Tanna, it was held that as a general rule, unless there is a statutory requirement to the contrary, in a case in which a person wishes to serve notice relating to a particular property on the owner of that property and the title to that property is registered at HM Land Registry, that person's obligation to make reasonable inquiries goes no further than to search the proprietorship register to ascertain the address of the registered proprietor. If the person serving the notice has actually been given a more recent address than that shown in the proprietorship register as the address or place of abode of the intended recipient of the notice, then notice should be served at that address also.
35. The word "known" in the phrase "last known address" includes both actual knowledge and constructive knowledge. Thus a former address will only be the "last known" address if the server of the notice has taken reasonable steps to find out what the intended recipient's current address is. What he would have found out on making reasonable inquiries will be knowledge imputed to him.
36. The Council knew from its dealings with the Premises that the First Respondent did not live at 17 Margaret Terrace and was also aware that the addresses used on the improvement notices, c/o Samco Lettings, 210 Prince Consort Road and 220 Alexandra Road, were addresses connected to the First Respondent's agent and not to him.
37. The point was raised that the tenancy agreement provides by reference to s.48 of the Landlord and Tenant Act 1987, notices could be served on the landlord at Samco Lettings' address. This point is potentially capable of supporting an argument that the agent's address was an authorised address for notices connected with the tenancy. However, the First Respondent's evidence is that he did not authorise Gateshead Council to serve documents on him at either Samco Lettings' business address or the registered office address.

38. A s.48 address is a statutory address for the service of notices by the tenant under the 1987 Act; it does not determine the “proper address” for service of an improvement notice under s.233 Local Government Act 1972, as applied.
39. The Applicant says that the Council posted the two notices to the First Respondent at 17 Margaret Terrace even though the notices themselves were addressed to the First Respondent at 210 Prince Consort Road and 220 Alexandra Road. This is baffling and demonstrates doubt in the mind of the Council about the First Respondent’s proper address for service. What is certain is that the Council knew that 17 Margaret Terrace was not the First Respondent’s proper address.
40. The Tribunal is not satisfied that either improvement notice was validly served on the First Respondent. The notices were addressed to the First Respondent at Samco Lettings' business address and at the company’s registered office address respectively. The Tribunal finds that neither address was the First Respondent’s proper address for service and that he had not authorised the Council to serve statutory notices upon him at either location. The fact that the tenancy agreement identified Samco Lettings' address for the purposes of s.48 of the Landlord and Tenant Act 1987 does not alter the statutory requirements governing service of improvement notices under s.233 of the Local Government Act 1972, as applied by section 246(9) of the 2004 Act.
41. Accordingly, the Tribunal finds that the Notices were not validly served and therefore did not become operative. It follows that the First Respondent could not have committed an offence under section 30(1) of the Housing Act 2004 and the application for a Rent Repayment Order must be dismissed.
42. The Tribunal notes that the application for a Rent Repayment Order was drafted by Gateshead Council on the Applicant's behalf. It was reasonable for the Applicant to rely on the Council to identify the correct respondents to the application and he cannot fairly be criticised for the inclusion of the Second Respondent in the proceedings.
43. The difficulties which have arisen in this case concerning service of the improvement notices stem from the Council's confusion as to the address at which the First Respondent could properly be served and a failure to appreciate the significance of proper service under the statutory scheme.

Judge P Forster

15 July 2026

RIGHT OF APPEAL

A person wishing to appeal against this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional Office, which has been dealing with the case.

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

If the person wishing to appeal does not comply with the 28-day time limit, that person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.