



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

Case Reference : **BIR/00CN/HMK/2025/0020**

Subject Property : **856 Pershore Road Selly Park
Birmingham B29 7LS**

Applicants : **Martina Williams and James Williams**

Respondent : **Satpal Tiwana**

Type of Application : **Application under section 41(1) of the
Housing and Planning Act 2016 for a
rent repayment order**

Date of Hearing : **21 May 2026**

Tribunal Members : **Deputy District Judge Stephen Haythorne
Mr Ian Humpheries B.Sc.(Est.Man.)
FRICS**

Date of Decision : **4 August 2026**

DECISION

Decision

- 1 The Tribunal is satisfied beyond reasonable doubt that the Respondent has committed a housing offence under section 95(1) Housing Act 2004 (the 2004 Act).
- 2 The Applicants are entitled to a rent repayment order pursuant to sections 43 and 44 Housing and Planning Act 2016 (the 2016 Act)
- 3 The amount of rent paid in the relevant period is £9300.00
- 4 The Tribunal's decision is that a rent repayment order of 40% of the sum of £9300.00 is a fair reflection of the seriousness of the offence and the Tribunal orders that Respondent shall pay the Applicants the sum of £3720.00 in respect of rent repayment.
- 5 The Tribunal's decision is that the Respondent should reimburse the Applicants the Tribunal fees of £341.00 which was paid to the Tribunal for the application.
- 6 The Tribunal orders that all sums must be paid within 28 days of the date that this decision is sent to the parties by the Tribunal.

Introduction

- 7 This is a decision on an application for a rent repayment order under section 41 of the Housing and Planning Act 2016 (the 2016 Act).
- 8 The Applicants are Martina Williams and James Williams, who were tenants at 856 Pershore Road, Selly Park, Birmingham, B29 7LS (the subject property) from February 2019 to January 2026. The Respondent is Mr Satpal Tiwana who is the landlord and owner of the subject property. The Respondent has been the registered freehold owner of the subject property since November 2005.
- 9 By way of an application dated 30 July 2025, the Applicants made an application for a rent repayment order covering the period of 12 months prior to the making of the application.
- 10 On 10 October 2025 the Tribunal issued Directions for the determination of the application.
- 11 On 21 May 2025 a remote hearing was held by Cloud Video Platform. The hearing was attended remotely by the Applicants and by the Respondent, who all appeared in person.
- 12 The Housing Act 2004 (the 2004 Act) introduced licensing for certain categories of residential accommodation. Under Part 3 of the 2004 Act, local housing authorities may designate areas in their district as subject to selective licensing in relation to other rented houses not otherwise required to be licensed under Part 2 of the 2004 Act.
- 13 Under section 95 of the 2004 Act a person who has control of or manages a house that is required to be licensed under Part 3 but is not so licensed commits an offence.
- 14 Commission of an offence under section 95 may lead to criminal prosecution and conviction or to the imposition by the local housing authority of a financial penalty pursuant to section 249A of the 2004 Act. Furthermore, under section 43 of the 2016 Act the Tribunal may make a rent repayment

order in favour of the occupier (or former occupier) if it is satisfied beyond reasonable doubt that the landlord has committed an offence under section 95 of the 2004 Act, whether or not the landlord has been convicted of that offence.

Background

- 15 The subject property is a 2 bedroomed terraced house. The subject property is entered through the porch which has an electrical box on the wall. The hallway has a double living and dining room to the right. The kitchen is at the end of the hallway and the garden is accessed from the kitchen and down some steps. There are stairs leading to the first floor with a bathroom to the right of the first floor hallway, a bedroom to the left and a further bedroom at the end of the hallway. There is access to a loft space.
- 16 The Applicants occupied the subject property continuously under yearly fixed term assured shorthold tenancies from February 2019 until January 2026, which was shortly before the last tenancy ended on 31 January 2026
- 17 The parties entered into an assured shorthold tenancy on 1 February 2024, which expired on 31 January 2025. The rent under the agreement was £750.00 per calendar month payable in advance commencing on 1 February 2024.
- 18 The parties entered into a further assured shorthold tenancy on 1 February 2025 and which expired on 31 January 2026. The rent under the agreement was £800.00 per calendar month payable in advance commencing on 1 February 2025.
- 19 On 5 June 2023 Birmingham City Council extended its licensing regime to include properties that fall outside the scope of HMO Mandatory and Additional Licensing Schemes by implementing a Selective Licensing Scheme in exercise of its powers under s80 of the 2004 Act. From 5 June 2023, all privately rented properties located within the Selective Licensing designated area are required to be licensed unless exempt in accordance with the 2004 Act.
- 20 The subject property falls within the Selective Licensing designated area and was required to be licensed from 5 June 2023.

Statutory regime

- 21 The statutory regime is set out in Chapter 4 of Part 2 of the 2016 Act. So far as relevant to the present application, the Act provides as follows –

40 Introduction and key definitions

(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, or ...

(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.

	Act	Section	General description of offence
...			
6	Housing Act 2004	section 95(1)	control or management of unlicensed house
...			

41 Application for rent repayment order

(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.

...

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);

...

44 Amount of order: tenants

(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 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.

The Parties' Cases

22 The Respondent does not deny that the subject property required a licence from 5 June 2023, but that the Respondent did not apply for licence until 17 September 2025 and that a licence was not granted until 5 November 2025. There is no dispute therefore that the subject property was required to be licensed, but was not licensed for the 12 month period prior to and ending on the date of the application. The relevant period in which the Tribunal can make a rent repayment order is 31 July 2024 to 30 July 2025 (the relevant period).

23 The Respondent does not deny that they were the landlord and the Applicants were the tenants during the relevant period.

24 The Applicant's case is that during the relevant period the rent was paid by them each calendar month from August 2024 to January 2025 (6 months inclusive) in the sum of £750 and from February 2025 to July 2025 (6 months inclusive) in the sum of £800. Making a total rent payment during the relevant period of £9300.00.

25 The Applicants state that whilst they have been tenants at the property there have been the following issues with the condition of the property:

- The boiler is old and failed a safety inspection. The Applicants used it as little as possible in the last year or so of the tenancy.;
- There has been a leak in the porch since the Applicants first moved into the subject property and staining from the leak runs into the electrical box;
- There have been various electrical faults;
- There was a leak from the toilet which ran into the kitchen
- The Applicants had to repeatedly chase the Respondent to replace the shower and had to source the shower themselves.

26 The Applicants also say that they have made contributions to the subject property which have improved the subject property and which includes internal decoration, partial carpeting and garden improvements.

27 The Applicants say that after they made the application, the Respondent indicated that they should begin looking for somewhere else to live.

- 28 The Applicants seek the maximum amount of award and also seek reimbursement of the Tribunal fees of the application.
- 29 The Respondent says that he was not aware of the need to obtain a licence and that the failure to obtain a licence was inadvertent and down to human error.
- 30 The Respondent's case is that the Applicants and the Respondent had a good landlord and tenant relationship throughout the Applicant's period of occupation and that the Respondent was a good landlord.
- 31 The Respondent's case is that they have always responded quickly to any complaints made about the condition of the subject property. The Respondent responds to the Applicants' allegations as follows:
- Whilst the boiler is old, it did pass safety inspections and did and does work;
 - With regard to the Porch, the roof has had a couple of contractors try to remedy the issue. Whilst the porch did leak, this was minor and the staining mainly historic;
 - All electrical issues at the property were remedied in 2025;
 - The Respondent disputes that the WC leaks. The Respondent admits that the floorboards around the WC had gone soft and the Respondent replaced these in 2024. The Respondent considers that there is no leak into the kitchen and this is most likely debris from the old floorboards;
 - The Respondent says that the shower was replaced as quickly as possible and that he did ask the Applicants to source the shower, so that they had a shower of their choosing. The Respondent says he paid the Applicants for the shower and arranged an electrician to fit it.
- 32 The Respondent says that he also replaced a garden fence in 2025 and provides various messages between the parties about reports of and responses to complaints about the condition of the subject property.
- 33 With regard to contributions made by the Applicants, the Respondent's says that the Applicants requested permission to carry out these works and he gave permission. The Respondent says that such contributions were about the Applicants making the subject property more comfortable and more of a home for them, rather than improving the subject property.
- 34 The Respondent denies that they asked the Applicants to find somewhere else to live. The Respondent says that he did discuss with the Applicants that they may have to move out temporarily whilst the electrical works were done, but that such works have been completed and there was no need for the Applicants to move.
- 35 The Respondent also says that they kept back £500.00 of the deposit paid by the Applicants because of work needed to clean and clear the subject property after the Applicants left. The Applicants didn't seek to challenge this and say that they just decided to draw a line under tenancy rather than challenge it.

Determination of the Tribunal

- 36 The Tribunal considered the application in four stages –
- (i) Whether the Tribunal was satisfied beyond reasonable doubt that the Respondent had committed an offence under section 95(1) of the 2004

Act in that at the relevant time the Respondent was a person in control of or managing a house that was required to be licensed under Part 3 of the 2004 Act but was not so licensed.

- (ii) Whether the Applicant was entitled to apply to the Tribunal for a rent repayment order.
- (iii) Whether the Tribunal should exercise its discretion to make a rent repayment order.
- (iv) Determination of the amount of any order.

Offence under section 95(1) of the 2004 Act

The requirements of the offence

- 37 In accordance with section 43(1) of the 2016 Act, the Tribunal is satisfied beyond reasonable doubt that, subject to the establishment of a reasonable excuse defence (see paragraphs 41 - 47 below), the Respondent, as landlord of the subject property, had committed an offence listed in section 40 of the 2016 Act, namely an offence under section 95(1) of the 2004 Act, which provides –

A person commits an offence if he is a person having control of or managing a house which is required to be licensed under [Part 3] ... but is not so licensed.

- 38 The Tribunal is satisfied that the subject property was a house subject to selective licensing under Part 3 of the 2004 Act and that the property was not licensed.
- 39 The Tribunal is satisfied that at all material times the Respondent was the landlord of the subject property.
- 40 The Tribunal is satisfied that at all material times the Respondent was the person managing the subject property within the meaning of section 263(3) of the 2004 Act. The Respondent was the owner of the subject property and received rent from persons in occupation of the property.

Reasonable excuse defence

- 41 Although the Respondent did not expressly raise a defence of reasonable excuse under section 95(4) of the 2004 Act, the substance of the Respondent's representations require the Tribunal to consider whether the Respondent might have such a defence: see *IR Management Services Limited v Salford City Council* [2020] UKUT 81 (LC) at paragraph 31.

- 42 Section 95(4) provides –

In proceedings against a person for an offence under subsection (1) ... 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) ...

- 43 Although the Tribunal must be satisfied beyond reasonable doubt as to the elements of the offence listed in section 95(1), the standard of proof in relation to the defence in section 95(4) is the balance of probabilities.

- 44 The Respondent's case is that he did not know that the subject property was required to have a licence and that this was due to human error. That the failure to hold a licence was inadvertent and a genuine mistake.
- 45 In the view of the Tribunal the Respondent has failed to bring themselves within the scope of the reasonable excuse defence based on a genuine mistake as to the requirement for a licence.
- 46 It was incumbent on the Respondent to know what is required to operate in the private rented sector in the area that the subject property is situated and keep up to date with statutory requirements. It is reasonably expected that the Respondent would do this as part of the management of the subject property.
- 47 The Tribunal is not satisfied, on the balance of probabilities that the Respondent had a reasonable excuse for managing an unlicensed property during the relevant period.
- 48 However, in the view of the Tribunal, the matters referred to by the Respondent above, may constitute mitigation in relation to deciding the amount of any rent repayment order.

Entitlement of the Applicant to apply for a rent repayment order

- 49 The Tribunal determined that the Applicants were entitled to apply for a rent repayment order pursuant to section 41(1) of the 2016 Act. In accordance with section 41(2), the subject property was let to the Applicants throughout the relevant period and the offence was committed in the period of 12 months ending with the day on which the application was made (30 July 2025).
- 50 There was no dispute that the Applicants occupied the subject property as their only or main home during the relevant period.

Discretion to make rent repayment orders

- 51 Since the Tribunal is satisfied beyond reasonable doubt that the Respondent committed an offence under section 95(1) of the 2004 Act, a ground for making a rent repayment order has been made out.
- 52 Even if the Tribunal finds that a relevant offence has been committed, it has a discretion not to make a rent repayment order (see section 43(1) of the 2016 Act which uses the word 'may' as opposed to 'must'). However, in the decision of the Upper Tribunal in the *London Borough of Newham v John Francis Harris* [2017] UKUT 264 (LC) Judge McGrath stated –
- I should add that it will be a rare case where a Tribunal does exercise its discretion not to make an order. If a person has committed a criminal offence and the consequences of doing so are prescribed by legislation to include an obligation to repay rent ... then the Tribunal should be reluctant to refuse an application for rent repayment order.*
- 53 The Tribunal was satisfied that there was no reason why a rent repayment order should not be made in the circumstances of this application.

Amount of rent repayment order

- 54 In accordance with section 44(2) of the 2016 Act, the amount of an order must relate to rent paid in a period, not exceeding 12 months, during which the landlord was committing an offence under section 95(1) of the 2004 Act.
- 55 In accordance with section 44(3) of the 2016 Act, the amount that the landlord is required to repay in respect of the period must not exceed the rent paid by the tenant in respect of that period less any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.
- 56 The Applicants were not in receipt of universal credit during any period of the tenancy and the tenancy agreement did not provide for any services to be included with the 'rent'. There was no dispute that the Applicants had paid the rent as claimed in the application.
- 57 The relevant period straddled 2 tenancy periods. Between 31 July 2024 to 31 January 2025 the rent paid was £750 per month making a total payment of £4500.00 (6 x £750 per calendar month). Between 1 February 2025 to 30 July 2025 the rent paid was £800 per calendar month making a total of £4800.00 (6 x £800 per calendar month).
- 58 The maximum amount of rent repayment order for the relevant period is therefore £9300 (£4500 + £4800)
- 59 In accordance with section 44(4) of the 2016 Act, in determining the amount of any rent repayment order, the Tribunal must, in particular, take into account the conduct of the parties, the financial circumstances of the landlord and whether the landlord has been convicted of any of the offences listed in section 40 of the 2016 Act.
- 60 The proper approach that the Tribunal is required to take at the final stage of the determination of the amount of any rent repayment order has been considered by the Upper Tribunal (Lands Chamber) in a series of decisions: see *Vadamalayan v Stewart* [2020] UKUT 183 (LC), *Ficcara v James* [2021] UKUT 38 (LC), *Awad v Hooley* [2021] UKUT 55 (LC), *Williams v Parmar* [2021] UKUT 244 (LC), *Aytan v Moore* [2022] UKUT 27 (LC), *Acheampong v Roman* [2022] UKUT 239 (LC), *Dowd v Martins and others* [2022] UKUT 249 (LC).
- 61 In *Dowd v Martins and others*, the Upper Tribunal endorsed the approach summarised in paragraph 21 of the decision in *Acheampong v Roman*. The FTT should:
- (a) *Ascertain the whole of the rent for the relevant period.*
 - (b) *Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal will be able to make an informed estimate.*
 - (c) *Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent (after deduction as above) is a fair reflection of*

the seriousness of this offence? That figure is then the starting point (in the sense that that term is used in criminal sentencing); it is the default penalty in the absence of any other factors but it may be higher or lower in light of the final step.

(d) Consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in section 44(4).

- 62 Applying steps (a) to (d) above to the present case, the Tribunal has already determined step (a): see paragraphs 57 -58 above.
- 63 With regard to step (b), there are no services paid for within the rent and therefore no deduction to be made.
- 64 Turning to step (c), the Upper Tribunal has made it clear that in applying section 44(4)(a) of the 2016 Act, the conduct of the Respondent landlord also embraces the seriousness of the type of offence committed by the Respondent landlord. In the present case the offence is the managing of an unlicensed house. Whilst this is a serious offence, it is clear from the scheme and detailed provisions of the 2016 Act that it is not normally regarded as the most serious of the offences listed in section 40(3): see *Daff v Gyalui* [2023] UKUT 134 (LC) at paragraphs 48-49 and *Irvine v Metcalfe* [2023] UKUT 283 (LC) at paragraph 72.
- 65 The Tribunal determines that the relatively less serious offence committed by the Respondent should be reflected in a deduction from the maximum amount of the rent repayment order identified above. The Tribunal considered that a reduction of 60% was appropriate in light of the offence committed, reducing the amount of the rent repayment order to £3720.00 (60% of 9300 = £5580, £9300 - £5580 = £3720.00).
- 66 Turning to step (d), the Applicants raised a number of issues in relation to the condition of the subject property and contributions they made to the subject property. These issues and the Respondents responses are set out above at paragraphs 25 – 35.
- 67 The Tribunal noted that not all issues which arise between landlord and tenant would give rise to an addition or reduction in an award. The purpose of a rent repayment order is to punish and deter criminal behaviour, see *Newell -v- Abbott and Another* [2024] UKUT 181 (LC) at paragraph 61.
- 68 The Tribunal noted that for the vast majority of the Applicant's occupation of the subject property the parties had a very good relationship.
- 69 Many of the issues raised by the Applicant about the condition of the subject property are relatively minor. In relation to the boiler and electrical issues, which could be a more serious, the Tribunal noted that Gas Safe certificates were issued in relation to the boiler and whilst the boiler was coming towards the end of its life, the Tribunal did not have evidence that the boiler did not work and/or was dangerous. In relation to the electrical issues, these do not appear to have caused any issues at the subject property and there was no evidence that electrics were dangerous.
- 70 In relation to allegations that the Respondent suggested that the Applicants live elsewhere after the application was made, the Tribunal was satisfied that this appeared to be in relation to the work that was required to the electrics and was not a form of retaliation by the Respondent.

- 71 The contributions made by the Applicants were aimed at making the subject property more comfortable and homely for the Applicants and were not significant improvements.
- 72 In relation to allegations made by the Respondent about costs incurred after the Applicants left, this involved minor issues and the Respondent was compensated by keeping £500 from the deposit.
- 73 Overall, the Tribunal did not consider that these allegations would have any impact on the amount of rent repayment order.
- 74 The Tribunal did not consider that was any need to adjust the amount of rent repayment order based on conduct of the parties.
- 75 Section 44(4)(b) of the 2016 Act requires the Tribunal to take into account the financial circumstances of the landlord. The Respondent was reluctant to disclose the financial circumstances, but stated they had recently lost their job and had no income. However, the Respondent also stated that they were making significant contributions towards their family, which suggests that they must have some form of income or savings to find these significant amounts. The Tribunal determines that it would not be appropriate to make any further adjustment of the amount of the rent repayment order to reflect the financial circumstances of the Respondent.
- 76 Section 44(4)(c) of the 2016 Act requires the Tribunal to take into account whether the landlord has at any time been convicted of any of the offences listed in section 40(3). The Tribunal has no evidence which would suggest that the Respondent has any such convictions.
- 77 Finally, the Tribunal notes (i) the reminder from Sir Timothy Fancourt in *Williams v Parmar* (at paragraph 43) that *Rent Repayment Orders under the Housing and Planning Act 2016: Guidance for Local Authorities* identifies the factors that a local authority should take into account in deciding whether to seek a rent repayment order as being the need to: punish offending landlords; deter the particular landlord from further offences; dissuade other landlords from breaching the law; and remove from landlords the financial benefit of offending; and (ii) the clear indication (at paragraph 51) that the factors identified in the Guidance will generally justify an order for repayment of at least a substantial part of the rent.
- 78 The Tribunal determines the maximum repayment amount identified in the paragraph 58 above should be discounted by a total of 60% as set out at paragraph 65 above.
- 79 The Tribunal therefore orders under section 43(1) of the 2016 Act that the Respondent repay to the Applicant the sum of **£3720.00**

Reimbursement of fees

- 80 The Applicant applied under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for the Tribunal to make an order requiring the Respondent to reimburse to the Applicant the application fee of £114.00 and the Tribunal hearing fee of £227.00.
- 81 Since the Tribunal has made a rent repayment order in favour of the Applicant, albeit in a lesser amount than that applied for, it is appropriate that the Applicant should have the fees reimbursed. The Applicant has had to pay these fees to the Tribunal and is not entitled to be reimbursed the fees by the

Tribunal regardless of the outcome of the case. If the Respondent is not required to pay these fees, the Applicant will be left out of pocket and this will in effect reduce the benefit of the amount of rent repayment order in real terms.

Summary

- 82 The Tribunal orders under section 43(1) of the 2016 Act that the Respondent repay to the Applicant the sum of **£3720.00** not later than 28 days from the date that this decision is sent to parties
- 83 The Tribunal orders under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 that the Respondent reimburse to the Applicant £114.00 in respect of the application fee and £227.00 in respect of the hearing fee, in total **£341.00** not later than 28 days from the date that this decision is sent to the parties.

Appeal

- 84 If a party wishes to appeal this Decision, that appeal is to the Upper Tribunal (Lands Chamber). However, a party wishing to appeal must first make written application for permission to the First-tier Tribunal at the Regional office which has been dealing with the case.
- 85 The application for permission to appeal must be received by the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- 86 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(s) for not complying with the 28-day time limit. The Tribunal will then consider the reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- 87 The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking.

4 August 2026

Stephen Haythorne
Deputy District Judge