



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

Case Reference : **BIR/31UC/HSB/2025/0012**

Subject Property : **Flat 39
7 The Coneries
Loughborough
Leicestershire
LE11 1DZ**

Applicant : **Oskar Zalewski**

Respondent : **Oluwunmi Odunaiya**

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

Tribunal Members : **Deputy Regional Judge Nigel Gravells
Mr Robert Chumley-Roberts MCIEH, JP**

Date of Decision : **19 August 2026**

DECISION

Preliminary

- 1 By application dated 15 September 2025 the Applicant, the tenant of Flat 39, 7 The Coneries, Loughborough, Leicestershire LE11 1DZ ('the subject property'), applied for a rent repayment order under section 41(1) of the Housing and Planning Act 2016 ('the 2016 Act').
- 2 The named Respondent was Oluwunmi Odunaiya.
- 3 The Applicant alleged that the Respondent had committed the offence of having control of or managing a property which was required to be licensed under Part 3 of the Housing Act 2004 ('the 2004 Act') but which was not so licensed, contrary to section 95(1) of the 2004 Act.
- 4 The Tribunal ordered that the application be consolidated with four other applications by (former) tenants of 7 The Coneries; and a case management hearing was held on 27 January 2026.
- 5 However, the other four applications were subsequently withdrawn.
- 6 On 3 February 2026 the Tribunal issued Directions for the determination of the application and further hearing Directions were issued on 28 June 2026.
- 7 On 22 July 2026 a hearing was held by remote video conference.
- 8 The Respondent appeared in person.
- 9 The Applicant did not attend and was not represented. However, pursuant to rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal proceeded with the hearing, since it was satisfied that the Applicant had been notified of the hearing and it considered that it was in the interests of justice to proceed with the hearing.

Statutory regime

- 10 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.

Discussion

- 11 In the Directions the Tribunal raised the issue of the appropriate Respondent. Section 43(1) of the 2016 Act the Tribunal may make a rent repayment order if it is satisfied beyond reasonable doubt that the Respondent, as landlord of the subject property, has 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.

- 12 In the present case the identity of the landlord and any person committing an offence under section 95(1) is not entirely clear; and the issue is complicated by the involvement of a number of different companies. Loughborough LE11 Ltd is the registered freeholder of the subject property. The Coneries Ltd is the registered head leaseholder. LGP Estates Ltd manages the property and collects the rent. Mrs Odunaiya is the sole Director and the person having significant control of the three above named companies. She is the ‘human face’ of the three companies.
- 13 The Applicant’s tenancy agreement names Loughborough LE11 Ltd as the landlord of the subject property, although at the date of the tenancy agreement Loughborough LE11 Ltd had granted the head lease to The Coneries Ltd.
- 14 However, as noted, Mrs Odunaiya is named as the Respondent. Although she has no legal interest in the subject property, that does not in itself preclude her from being the landlord under the tenancy agreement: see *Bruton v London and Quadrant Housing Trust* [2000] 1 AC 406. And in the circumstances it might be argued that Loughborough LE11 Ltd and/or The Coneries Ltd in effect acts as agent for Mrs Odunaiya, who is therefore an ‘undisclosed principal’ and the landlord of the subject property (see *Cabo v Dezotti* [2024] EWCA Civ 1358).

- 15 Moreover, Charnwood Borough Council prosecuted Mrs Odunaiya for the offence under section 95(1) in respect of the subject property (and 28 other flats at 7 The Coneries), although her conviction (and 24 other convictions) in the Magistrates' Court were quashed by the Crown Court on appeal.
- 16 Finally, the application to Charnwood Borough Council dated 8 December 2023 for a selective licence for the subject property under Part 3 of the 2004 Act and the subsequent licence granted on 27 February 2025 both named the licence holder as 'The Coneries Ltd (Olawunmi Odanaiya)'.
- 17 This arguable uncertainty as to the identity of the landlord may explain why the Applicant named Ms Odanaiya as Respondent.
- 18 However, in the circumstances the identity of the landlord and any person committing an offence under section 95(1) of the 2004 Act is of no consequence and it is not necessary (or appropriate) for the Tribunal to resolve any uncertainty.
- 19 Mrs Odanaiya's original convictions under section 95(1) were quashed on the ground that she had a defence under section 95(3), which provides –
- In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time –
- (b) an application for a licence had been duly made in respect of the house under section 87,
- and that ... application was still effective (see subsection (7)).
- 20 And section 95(7) provides –
- For the purposes of subsection (3) an ... application is 'effective' at a particular time if at that time it has not been withdrawn, and either—
- (a) the authority have not decided whether to ... grant a licence, in pursuance of the ... application
- 21 It follows that during the relevant period of 12 months ending with the day on which the Applicant made his application (15 September 2025) (see section 41(2)(b) of the 2016 Act), no offence under section 95(1) of the 2004 Act in respect of the subject property was committed by any person. From 8 December 2023 (before the relevant period) until 27 February 2025 there was an effective licence application and therefore a defence under section 95(3); and from 27 February 2025 the subject property was licensed.
- 22 Since no offence under section 95(1) of the 2004 Act was being committed in respect of the subject property during the relevant period, the Tribunal has no jurisdiction to make a rent repayment order under section 43(1) of the 2016 Act.

Appeal

- 23 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.

- 24 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.
- 25 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.
- 26 The application for permission to appeal must state the grounds of appeal and must state the result the party making the application is seeking.

19 August 2026

Professor Nigel Gravells
Deputy Regional Judge