



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

Case reference : LON/oAL/HMG/2026/0009

Property : Rm 2, 35 Milne House, Ogilby Street,
London SE18 5EJ

Applicant : Abdillahi Mohamed Abokar

Representative : I/P

Respondent : Yvelise Delphine Gane

Representative : I/P

Type of application : Rent Repayment Order

Tribunal members : Judge Tagliavini
Mr S Mason FRICS

Venue : 10 Alfred Place, London WC1E 7LR

Date of hearing : 24 August 2026
Date of decision : 21 September 2026

DECISION

The tribunal's decisions

- (i) The application for a rent repayment order is dismissed.
 - (ii) No order is made for the reimbursement of the applicant's application and hearing fee by the respondent.
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The application

- 1. This is an application for a rent repayment order (RRO) pursuant to s. 41 of the Housing and Planning Act 2016.

Background

- 2. The applicant became the tenant of the subject premises at **Rm 2, 35 Milne House, Ogilby Street, London SE18 5EJ** ('the premises') under a tenancy agreement dated 01/09/2023 at a rent on £850 per month inclusive of utilities. The applicant asserts the respondent committed an offence pursuant to s.72(1) of the Housing Act 2004 as she had the management and/or the control of the premises but failed to obtain the required HMO licence.
- 3. The premises are situated in a two-bed top flat ('the flat').
- 4. The applicant now seeks a RRO in the sum of £784.80 (£9,415.20 paid by way of Universal Credit Housing Costs of totalling £10,200.00) for the period September 2023 to September 2024.

The Law

- 5. Section 254(2) of the Housing Act 2004 provides:

A building or a part of a building meets the standard test if—

(a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;

(b) the living accommodation is occupied by persons who do not form a single household (see section 258);

(c)the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

(d)their occupation of the living accommodation constitutes the only use of that accommodation

(e)rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and

(f)two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

(3)A part of a building meets the self-contained flat test if—

(a)it consists of a self-contained flat; and

(b)paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).

The hearing

6. At the hearing, the tribunal was provided with a hearing bundle of 64 digital pages from the applicant and a 33 page digital bundle from the respondent. Both parties attended the hearing in person and also gave oral evidence to the tribunal.

The applicant's case

6. The applicant asserted the flat was occupied by 4 unrelated individuals and required a mandatory HMO licence as confirmed in an email dated 07/11/2024 by the London Borough of Greenwich and confirmed as an HMO by a county court order dated 19/12/2024. However, the respondent did not seek to obtain a licence until March 2025 and had committed an offence.
7. The applicant accepted the majority of his rent had been paid by way of Universal Credit/Housing Costs and that these had to be deducted from the amount of the total rent paid during the relevant period of the RRO. The applicant sought to vary the amount claimed and asserted he had paid the first month's rent himself of £850 before Universal Credit payments were made together with a further £400 as well £128 for arrears. In total the applicant sought a RRO of £2,064.20.

8. The applicant also asserted the flat was overcrowded; there was disrepair in the kitchen; damp in the bathroom and had experienced harassing behaviour by the respondent.

The respondent's case

9. The respondent confirmed she is the long leaseholder of the subject premises and had let the property through a managing agent, while she was temporarily abroad but took back day to day management when the fixed term of the applicant's tenancy expired and left the premises
10. The respondent told the tribunal that one tenant occupied Room 1 and the applicant room 2. In addition, another person who was either her brother or a friend, also stayed at the property from time to time, sleeping in the divided living area) although did not pay rent. The respondent asserted the premises did not meet the applicant's assertion the premises was a mandatory HMO, as the requirement for Mandatory HMO licensing applies only when occupied by five or more persons forming two or more households.
11. In any event, the respondent contacted the local authority and obtained a temporary exemption notice (TEN) covering the period 24 June 2024 to 24 October 2024. On 15 November 2024, the applicant applied for a HMO licence but subsequently cancelled the application when she resumed occupation of the flat in January 2025.
12. The respondent also told the tribunal the rent was also inclusive of utilities.

Reasons for the tribunal's decisions

13. The burden of proof falls on the applicant to establish beyond reasonable doubt the respondent has committed the offence alleged i.e. the respondent operated an unlicensed House in Multiple Occupation (HMO) as there were 4 unrelated persons in occupation throughout the period for which the RRO is claimed.
14. The tribunal finds the applicant has failed to prove the flat had been occupied as an HMO either under the standard test – three or more persons forming more than one household or the mandatory test – five or more persons in two or more households or that these persons occupied the flat or parts of it, as their only or main residence.
15. The tribunal accepts the evidence of the respondent and finds that during the relevant period 1 September 2023 to September 2024, the flat was occupied by two persons (including the applicant) and that a third

person temporarily stayed in the partitioned living area on a temporary basis and were either the respondent's brother or a friend.

16. As the applicant has failed to establish the premises formed part of a HMO or that it required a licence, the tribunal is not required to consider any defence of 'reasonable excuse' or quantum.
17. In any event, it appears to the tribunal that from the sum claimed of £2,064.20 the tribunal would be required to make deductions for utilities, usually in the region of £50 to £100 per month (i.e. 500 to £1200), thereby reducing the amount claimed to 1564.20 to 864.20 before moving on to apply any further reductions in accordance with the statutory requirement and Upper Tribunal decisions.
18. In conclusion, the tribunal dismisses the application for a RRO and does not make any order for the reimbursement of fees to the applicant.

Name: Judge Tagliavini

Date: 21 September 2026

Rights of Appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the Regional Office which has been dealing with the case. The application should be made on Form RP PTA available at <https://www.gov.uk/government/publications/form-rp-pta-application-for-permission-to-appeal-a-decision-to-the-upper-tribunal-lands-chamber>

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

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 for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).