FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00BE/HMF/2025/0889**
Property	:	**Flat 1, Woodside Villa, 11 Sydenham Hill, London, SE26 6SH**
Applicants	:	(1) **Sean Hannigan,** (2) **Charlotte Farrow and** (3) **James Middleton**
Representative	:	**In Person**
Respondents	:	**Solmaz Zeidi**
Representative	:	**In Person**
Type of Application	:	**Application for a Rent Repayment Order by Tenant. Sections 40, 41, 43, & 44 of the Housing and Planning Act 2016**
Tribunal Member	:	**Mr A Harris LLM FRICS** **Mr S Mason FRICS**
Date and Venue of Hearing	:	**10 August 2026 at** **10 Alfred Place, London WC1E 7LR**
Date of Decision	:	**12 August 2026** **Reviewed 21 September 2026**

DECISION

Decision of the Tribunal

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1. The Tribunal makes a Rent Repayment Order (RRO) against the Respondent, Solmaz Zeidi in favour of the Applicants in the sum of £7650.00 to be paid within 28 days.

2. The Tribunal determines that the Respondent shall also pay the Applicants a total of £341 within 28 days in respect of the reimbursement of the tribunal fees paid by the Applicants.

3. **Background**

4. The Applicants are the three occupiers Flat 1, Woodside Villa, 11 Sydenham Hill, London, SE26 6SH (the Flat). An assured shorthold tenancy agreement was prepared by Ladybird Living, the letting and managing agent for a term of 12 months starting on, and including, 13 January 2024 at a rent of £2550.00 per calendar month naming Solmaz Zeidi as Landlord and Sean Hannigan, James Middleton and Charlotte Farrow as tenants. The rent was split with James Middleton paying £850.00 per month, Sean Hannigan £900.00 per month and Charlotte Farrow £800.00 per month.

5. The Flat was occupied by the three tenants as separate households as their main residence, sharing kitchen and bathroom facilities.

6. It is common ground that the flat is in the London Borough of Southwark who have an additional licensing scheme for houses in multiple occupation consisting of 3 or more persons in 2 or more households. It is also common ground that the flat was not licensed.

7. **The Application**

8. By an application dated 31 July 2025 the Applicants sought Rent Repayment Orders ("RRO") totalling £30,600 being the rent for the period 1 August 2024 to 31 July 2025, against the Respondent pursuant to Part I of the Housing and Planning Act 2016 ("the 2016 Act"). The Respondent is named in the tenancy agreement of the Flat as the landlord. The Respondent and Ehsan Amertousi are the registered leasehold owners of the Flat,

9. The Tenancy did not end until 9 February 2026 . although the application was made on 31 July 2025.. Therefore the offence was being committed in the period of 12 months ending on the day on which the application was made. The application is made on the basis that the landlord has committed the offence under section 72 (1) of the Housing Act 2004 of control of, or managing, an unlicensed HMO. There is no suggestion that the landlord has been convicted of the offence.

10. On 10 December 2025, the Tribunal gave Directions for a hearing on a date to be fixed.

The Hearing

11. The Applicants and Respondent appeared in person.

The Law

Housing and Planning Act 2016 ("the 2016 Act")

12. Section 40 provides :

> "(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
>
> (b) pay a local housing authority an amount in respect of a relevant award of universal credit paid (to any person) in respect of rent under the tenancy."

13. Section 40(3) lists seven offences "committed by a landlord in relation to housing in England let by that landlord". The Claims are made in respect of the following three offences

(1) the offence of eviction or harassment of occupiers contrary to section 1 (2), (3) or (3 A) of the Protection from Eviction Act 1977

(2) the offence of control or management of an unlicenced HMO under section 72(1) of the Housing Act 2004 ("the 2004 Act")

(3) the offence of having control of, or managing an unlicensed HMO under part 3, section 95 (1) of the Housing Act 2004

14. Section 41 deals with applications for RROs. The material parts provide:

> "(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.

15. Section 43 provides for the making of RROs:

> "(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)."

16. Section 44 is concerned with the amount payable under a RRO made in favour of tenants. By section 44(2) that amount "must relate to rent paid during the period mentioned" in a table which then follows. The table provides for repayment of rent paid by the tenant in respect of a maximum period of 12 months. Section 44(3) provides (emphasis added):

> "(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."

17. Section 44(4) provides:

> "(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."

18. Section 56 is the definition section. This provides that "tenancy" includes a licence.

The Housing Act 2004 ("the 2004 Act")

19. Part 2 of the 2004 Act relates to the designation of areas subject to additional licensing of houses in multiple occupation (HMO).

20. Section 72 specifies a number of offences in relation to the licencing of houses. The material parts provide (emphasis added):

"(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61 (1)) but is not so licensed.

(4) 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
(b) an application for a licence had been duly made in respect of the house under section 63"

21. Section 62 (2) allows the local authority to grant a temporary exemption of up to 3 months where a landlord intends to take particular steps with a view to securing that the house is no longer required to be licensed.

22. The Housing Act 2004 Part 2 s. 61(1) states:

(1) Every HMO to which this Part applies must be licensed under this Part unless—
(a) a temporary exemption notice is in force in relation to it under section 62, or
(b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4.

23. Section 55 of the Housing Act 2004 states:

55 - **Licensing of HMOs to which this Part applies**

(1)This Part provides for HMOs to be licensed by local housing authorities where—
(a) they are HMOs to which this Part applies (see subsection (2)), and
(b) they are required to be licensed under this Part (see section 61(1)).

(2) This Part applies to the following HMOs in the case of each local housing authority—
(a) any HMO in the authority's district which falls within any prescribed description of HMO, and
(b) if an area is for the time being designated by the authority under section 56 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation

24. The Housing Act 2004 introduced the mandatory licensing of HMOs whilst The Licensing of Houses in Multiple Occupation Order (Prescribed Description) (England) Order 2018 states at paragraph 4

4. An HMO is of a prescribed description for the purpose of section 55 (2) (a) of the Act if it

(a) is occupied by 5 or more persons
(b) is occupied by persons living in 2 or more separate house and
(c) meet the standard test under section 254 (2)of the Act

254 **Meaning of "house in multiple occupation**

(1) For the purposes of this Act a building or a part of a building is a "house in multiple occupation" if—

(a)it meets the conditions in subsection (2) ("the standard test");…

(2)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.

72 Offences in relation to licensing of HMOs

25. Section 72 specifies a number of offences in relation to the licencing of houses. The material parts provide (emphasis added):

"(1) A person commits an offence if he is a person <u>having control of</u> or <u>managing</u> a house which is required to be licensed under this Part (see section 61 (1)) but is not so licensed.

(2)A person commits an offence if—

(a)he is a person having control of or managing an HMO which is licensed under this Part,

(b)he knowingly permits another person to occupy the house, and

(c)the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

(3)A person commits an offence if—

(a)he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and

(b)he fails to comply with any condition of the licence.

(4)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

(b)an application for a licence had been duly made in respect of the house under section 63,

and that notification or application was still effective (see subsection (8)).

(5)In proceedings against a person for an offence under subsection (1), (2) or (3) 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), or

(b)for permitting the person to occupy the house, or

(c)for failing to comply with the condition,

as the case may be.

263 Meaning of "person having control" and "person managing" etc.

26. (1)In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

(3) In this Act "person managing" means, in relation to premises, the person who, being an owner or lessee of the premises—

(a) receives (whether directly or through an agent or trustee) rents or other payments from—

(i) in the case of a house in multiple occupation, persons who are in occupation as tenants or licensees of parts of the premises; and

(ii) in the case of a house to which Part 3 applies (see section 79(2)), persons who are in occupation as tenants or licensees of parts of the premises, or of the whole of the premises; or

(b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;

and includes, where those rents or other payments are received through another person as agent or trustee, that other person.

(4) In its application to Part 1, subsection (3) has effect with the omission of paragraph (a)(ii).

(5) References in this Act to any person involved in the management of a house in multiple occupation or a house to which Part 3 applies (see section 79(2)) include references to the person managing it.

Protection from Eviction Act 1977

<u>Unlawful eviction and harassment of occupier</u>.

27. 1 (1)In this section "residential occupier", in relation to any premises, means a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of the premises.

(2)If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.

(3)If any person with intent to cause the residential occupier of any premises—

(a)to give up the occupation of the premises or any part thereof; or

(b)to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

The Evidence

The property

28. The Flat is a converted flat in a Victorian detached property arranged over 3 floors. The accommodation consists of an open plan kitchen and living room 3 bedrooms and 2 bathrooms.

29. The flat was bought for £455,000 in October 2013. The flat is on the market and under offer at the date of the hearing at a price of £670,000. The Respondent stated the outstanding mortgage on the flat was circa £600,000.

Occupation

30. All 3 Applicants gave evidence that they moved in at the start of the tenancy and occupied the flat as their main or only residence. Each occupant formed a separate household.

31. Correspondence was exhibited between the Respondent and Ladybird Living in September 2023 regarding the need for an HMO licence. The Respondent said this was because at the time a single family letting as had been the case previously was proving difficult and an HMO where individual rooms were let was being considered. Neither she nor her agent considered that a joint letting to 3 unrelated tenants constituted an HMO.

The tribunal's decision

32. The tribunal accepts the evidence of the Applicants and is satisfied beyond reasonable doubt that at all times during the tenancy there were 3 occupants of the flat forming separate households.

Licence requirements

33. The tribunal has found that the property was let to 3 occupants who were not related and who shared kitchen and bathroom facilities. The property therefore meets the standard test for an HMO and required a licence.

34. It is common ground that the London Borough of Southwark have an Additional licensing scheme which covers the geographical area in which property lies and that the property was not licensed as an HMO.

35. No licence application for an HMO licence was made before or during the tenancy.

The relevant landlord

36. It is not disputed that the Respondent is the landlord of Flat.

The period of the offence

37. Under section 41(2)(a) of the Housing and Planning Act 2016 a tenant may apply for a rent repayment order if 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 for a licence was made.

38. The tenancy ran for a term from 13 January 2024 until 31 July 2025 when the Applicants vacated. The maximum period for which an order can be made is 12 months. No application had been made at any stage for an HMO licence.

39. The Tribunal is satisfied beyond reasonable doubt that the offence was being committed during this period.

Rent paid

40. The amount of rent paid which can be the subject of any order is agreed at £30,600.00.

Utility costs

41. In *Acheampong v Roman* [2022] UKUT239 (LC) the Upper Tribunal restated the amount of a rent repayment order should start with the amount of rent paid and then deduct any element of that sum that represents payments for utilities that benefit the tenant such as gas and electricity and internet access.

42. The Applicants were responsible for the utility costs during the tenancy and therefore no deduction falls to be made.

Repayment Order

43. The Tribunal is satisfied that the conditions for the making of a Rent Repayment Order have been made out. Under section 44 of the 2016 Act the amount the landlord may be required to repay must not exceed the rent paid in that period. The Tribunal must also take into account the conduct of the landlord and tenant and the financial circumstances of the landlord and whether the landlord has been convicted of an offence. There is also a defence available to the landlord of reasonable excuse.

44. The Tribunal has no evidence of a conviction.

The Respondents financial circumstances.

45. The tribunal was given limited evidence of the Respondent's financial circumstances. Detail was lacking but the Respondent produced documentary evidence of her parlous financial position and was being assisted by StepChange a debt advisory charity. In oral evidence the Respondent stated that at the date of the hearing the flat was vacant and for sale as there were continuing mortgage payments going out in excess of £3000 per month. A table of those payments was presented to the tribunal. In addition there are the usual costs of a leasehold flat of ground rent and service charge plus the usual running costs. If she sells at the price currently agreed, after payment of costs and capital gains tax there is unlikely to be any surplus. The Respondent stated she is on the edge of bankruptcy.

46. The tribunal accepts this evidence.

47. The tribunal is satisfied the Respondents financial circumstances justify a reduction in the rent repayment order the tribunal may make.

Conduct of the parties

48. The Applicants gave evidence of various items of disrepair, in particular staining to the floor around the WC in the en-suite bathroom and a dripping tap in the other bathroom. A problem with corridor lighting was the subject

of complaint. There was a gap in the gas safety certificate dates for about 6 months although no defects were identified. There was a short period when a replacement carbon monoxide monitor was being obtained.

49. The Applicants complained that a s21 notice was served on them requiring them to leave which was invalid as the flat was not licenced. The letting agents sought to arrange viewings for re-letting which the Applicants consider amounted to harassment. There was also a dispute about viewings for a sale of the flat.

50. The tribunal has considered the evidence given by the Applicants that they felt harassed by being contacted by the Respondents agents. The tribunal is not persuaded that the acts were sufficient to interfere with the peace and comfort of the residential occupiers contrary to s1(3) of the 1977 Act

51. The tribunal finds that the Respondent was poorly advised by her agent about the status of the flat and whether she was required to obtain an HMO licence and also the events discussed in the previous paragraph. The Respondent also did not show any curiosity about licencing requirements when the question of a licence was discussed earlier.

52. The Tribunal finds no evidence of any conduct on behalf of the Applicants which is relevant to this assessment.

Reasonable excuse

53. The Respondent did not raise a defence of reasonable excuse.

The amount of a rent repayment order

54. The Tribunal has considered the guidance given by the Upper Tribunal in *Acheampong v Roman*, *Williams v Parmar*, *Aytan v Moore [2022] UKUT 027 (LC)* and *Newell v Abbott* [2024] UKUT 181 (LC).

55. In Newell the Upper Tribunal considered the level of RRO 's in various cases. The present case is not like the cases such as Williams v Parmar or Aytan v Moore where there was significant disrepair. In those cases the RRO was of the order of 80-90%

56. In *Simpson House 3 Ltd v Osserman* [2022] UKUT 164 (LC) a substantial property company let an HMO in good condition but without a licence and responded to requests for repair by serving a notice to quit and making threats to forfeit the tenants deposit. An RRO of 80% was ordered. The tribunal considers the present case to be less serious as the Respondent is not a substantial company and the harassment complained of is of a lower order.

57. In *Hallett v Parker* [2022] UKUT 165 (LC) an individual let his former family home while he worked abroad. The agent let it in circumstances requiring an HMO licence but the agent did not advise the landlord of that or obtain a licence. The property was in good condition and the tribunal ordered 25% of the rent.

58. In *Dowd v Martins* [2022] UKUT 249 (LC) a landlord owned 4 flats in a building but failed to licence one which was an HMO. The tribunal considered this was more serious than Hallett and ordered an RRO of 45%.

59. *Daff v Gyalui* [2023] UKUT 134 (LC) was a case where the owner of a flat became unwell and returned to her home country where she became seriously unwell. While away she let the flat through an agency which did not advise her a selective licence was required. The tribunal accepted the landlords offence was very much to the bottom of the range of seriousness and accepted poor health has contributed to her lack of attentiveness. The RRO was under 10% of the rent received.

60. In *Irvine v Metcalfe* [2023] UKUT 283 (LC) landlords who owned a number of large properties deliberately avoided obtaining an HMO licence for one of them, despite knowing that it was required. At paragraph [72] the Deputy President reminded himself that "A failure to licence an HMO is always a serious matter, although generally of lesser significance than the other housing offences listed in section 40(3), 2016 Act". On the other hand, "Where there is little or no evidence that licensing would have been conditional on changes being made to the condition of the property the particular failure may be regarded as lower in the scale of seriousness". Taking into account the nature of the offence, the condition of the property and the fact that the offence had been committed deliberately by experienced landlords he determined that 75% of the net received by the landlords should be repaid.

61. The Tribunal has considered that the Respondent is not an experienced landlord familiar with the licensing regimes for housing. It has also considered the state of repair of the property.

62. The tribunal also takes into account complete failure of the Respondent to seek an HMO licence at any stage while the offence was being committed.

63. The Court of Appeal in *Kowalek v Hassanein* [2022] EWCA Civ 1041 quoted with approval from *Jepsen v Rakusen* [2021] EWCA Civ 1150, [2022] 1 WLR 324, (s44) "is intended to deter landlords from committing the specified offences" and reflects a "policy of requiring landlords to comply with their obligations or leave the sector": and further Parliament's principal concern was thus not to ensure that a tenant could recoup any particular amount of rent by way of recompense, but to incentivise landlords. The 2016 Act serves that objective as construed by the Deputy President. It conveys the message, "a landlord who commits one of the offences listed in section 40(3) is liable to forfeit every penny he receives for a 12-month period".

64. The Upper Tribunal in Acheampong set out several stages to the assessment of a rent repayment order.

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).

65. Applying the above guideline, the whole of the rent is £30,600.00. There are no utilities to be deducted.

66. Failing to licence a house which is required to be licensed is a serious offence and is part of a policy to ensure housing is of an appropriate quality. The tribunal regards the complaints about repair as being normal incidents which could occur in any property and makes no adjustment for this. The tribunal has regard to the fact that the Respondent was not a professional landlord albeit she owned one other investment property jointly. The Flat was the former residence of the Respondent.

67. Taking all these factors into account the tribunal determines that the appropriate level of rent repayment order is 50%. The tribunal then considered the financial position of the Respondent and accepts her evidence In view of this there must be doubt about whether a RRO will be met or just added to the list of creditors. Even allowing for this the tribunal considers there must still be an element of deterrence and reduces the level of the RRO by 50% which it considers in the circumstances is still a severe penalty.

Our Determination

68. The Tribunal is satisfied beyond reasonable doubt that the Respondents have committed an offence under section 72(1) of the 2004 Act of managing an unlicenced HMO.

69. The Tribunal makes a rent repayment order in favour of the Applicants in the sum of £7650.00 to be paid within 28 days.

70. We are also satisfied that the Respondent should refund to the Applicants the Tribunal fees of £341 which have been paid in connection with this application.

A Harris LLM FRICS
Valuer Chair

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 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).