



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

Case Reference : **LON/00AY/HMF/2025/0751**

Property : **44 Tulse Hill, London, SW2 2PR**

Applicant : **Candice Bowers**

Representative : **In Person**

Respondent : **Mr Yousaf Malik**

Representative : **Mr K Hart, Freemans Solicitors**

Type of Application : **Application for a rent repayment order by a tenant**

Tribunal Members : **Tribunal Judge Prof R Percival
Ms C Barton MRICS**

Date and venue of Hearing : **26 May 2026
10 Alfred Place, London, WC1E 7LR**

Date of Decision : **8 October 2026**

DECISION

Orders

- (1) The Tribunal makes a rent repayment order against the Respondent to the Applicant in the sum of £4,302, to be paid within 28 days.
- (2) The Tribunal orders under Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013, rule 13(2) that the Respondent reimburse the Applicants together the application and hearing fees in respect of this application in the sum of £341.

The application

1. On 3 April 2025, the Tribunal received an application under section 41 of the Housing and Planning Act 2016 (“the 2016 Act”) for Rent Repayment Orders (“RROs”) under Part 2, Chapter 4 of the Housing and Planning Act 2016. The period for which the RRO was claimed was 18 February 2024 to 17 February 2025.

The hearing

Introductory

2. Ms Bowers represented herself. The Respondent was represented by Mr Hart, Freemans Solicitors.
3. The property is a three bedroom house. The Applicant moved in in July 2023. The Applicant took a furnished double bedroom in the house.
4. The Respondent’s health was poor, from 2023 onwards, and intensifying after his stroke in June 2025. For the most part, his daughter, Ms Nalia Malik, acted as his agent. Ms Malik lived in Kenya, although our understanding was that she also frequently visited London. A letting agent was appointed to organise new lettings.

Preliminary matters

5. Initially, Mrs Suriya Malik was a joint Respondent with her husband, Mr Yousaf Malik. Mr Hart argued that she was not a proper respondent and should be removed. Ms Bowers agreed that she should be removed as a respondent, and we so ordered.
6. Mr Hart had been instructed only shortly before the hearing. On Thursday 22 May 2026, an application was made by Mr Hart for the late submission of the Respondent’s bundle. The directions, as amended on 28 November 2025, had required the Respondent’s bundle

on 30 January 2026. The application was referred to the Tribunal to determine as a preliminary matter.

7. Mr Hart explained that Mr Malik had suffered a stroke in June 2025, and was still suffering the effects. He had been informally represented by his daughter, Naila Malik, but she is not resident in the UK full time. She had also been largely acting as his agent in respect of the property. There was medical evidence to the effect that Mr Malik was not able to properly deal personally with the application, and, Mr Hart argued, the statement required in the Respondent's bundle had to be made by him.
8. Mr Hart referred us to the overriding objective in Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ("the 2013 Rules"), rule 3, the object of which is to enable us to deal with cases fairly and justly; to rule 6(1) allowing us to regulate our own procedure, rule 6(3)(s), allowing us to extent time limits, and to rule 8(2)(a), allowing us to waive requirements of the rules. He submitted that we could allow the bundle in, and we should do so.
9. Ms Bowers extended her sympathy to Mr Malik for his state of health. She argued that the application had been made about a year ago, when a housemate contacted the council about other matters, and they suggested the RRO application. Since the application was made, there had been amply opportunity for the Respondent to engage in the process.
10. We allowed the application to admit the bundle, but – as Mr Hart himself had observed in his submissions – we would give very little weight to the evidence provided in the witness statements. There was no point in excluding the submissions, which is what Mr Hart would be entitled to put orally.

The alleged criminal offence

11. The Applicant alleges that the Respondent was guilty of the having control of, or managing, an unlicensed house in multiple occupation contrary to Housing Act 2004 ("the 2004 Act"), section 72(1). The offence is set out in Housing and Planning Act 2016, section 40(3), as one of the offences which, if committed, allows the Tribunal to make a rent repayment order under Part 2, chapter 4 of the 2016 Act.
12. The Applicant's case is that the property was situated within an additional licensing area as designated by the London Borough of Lambeth.
13. At the hearing Mr Hart agreed that he did not take a technical point that the additional scheme had not been pleaded, as – as we said – it had not been pleaded because we all knew that there was an all-area additional licensing scheme in Lambeth. Had such a point been taken,

we would have adjourned the hearing for a brief period to allow the Applicant to have provided proof of the scheme from the Borough's website.

14. As usual, the Applicant's evidence went mainly to quantum. However, she did, in answer to questions from the Tribunal, say that she had another home in Birmingham. The property was, she said, not her only home, but it was her main residence. Although she did go back and forth between Birmingham and London, she said that the property was where she "predominantly" lived. She had changed the address on her driving licence and her GP to this address. She also said that her flatmates lived in the house full time.
15. Mr Hart had provided submissions at the start of the Respondent's bundle (effectively standing in for a skeleton argument), and he relied on these.
16. Mr Hart submitted that the Applicant could not demonstrate that the property was her only or main residence, a pre-condition of the property being an HMO (section 254(2)(c) of the 2004 Act), which in turn was a pre-condition for the licensing obligation and the offence under section 72(1). He noted that the issue had not been dealt with in the Applicant's written materials. It was only in her oral evidence that the Applicant had given evidence that it was her main home, and that it was their only home for the other tenants.
17. Mr Hart submitted that we had not specific evidence as to the personal living circumstances of the other two tenants. Since the Covid-19 lockdowns, the world had changed, and people lived and worked in different ways to that which obtained before, including living between different places.
18. Mr Hart cited *Camfield v Uyiakpen* [2022] UKUT 234 (LC), *Opara v Olasemo* [2020] UKUT 96 (LC), *Mortimer v Calcagno* [2020] UKUT 122 (LC) and *O'Halloran v Cornwall Council* [2024] UKUT 403 (LC)
19. As to reasonable excuse, citing *Marigold and others v Wells* [2023] UKUT 33 (LC), Mr Hart argued that taken together, three factors amounted to a reasonable excuse. The first is that the Respondent did not know that the property required an HMO licence. Secondly, that his long term health issues were relevant. And thirdly, that the law on licensing is complicated, and some distance from being capable of being considered "well-known, simple and straightforward", quoting *Marigold v Wells* at [49], citing *Perrin v HMRC* [2018] UKUT 156 (TCC) [82].

20. We reject the Respondent's submissions in respect of whether the property was the only or main home of the Applicant and each of the other two tenants.
21. First, and primarily, we accept the direct evidence of the Applicant. We were impressed by Ms Bowers as a witness. She came across as straightforward, honest and fair minded. She volunteered without being asked, for instance, that Ms Malik was always responsive to enquiries or complaints. Rather than try to evade or qualify, she straightforwardly confirmed matters put to her by Mr Hart or the Tribunal which were positive to the Respondent. We are therefore inclined to believe her evidence.
22. Ms Bowers described the property as her "predominant" home. She gave the examples we set out above to support the assertion that she considered it her main home. When relating the difficulties towards the end of the tenancy when she had fallen out with the other two tenants, a part of that was that she had had to frequently visit Birmingham, where her aunt was dying of cancer. That account is consistent with the property being her main home, but not her only home. Indeed, it is precisely because the property was her main home that the need to spend time in the other home was stressful and difficult, at that time.
23. When we asked her, she said that the other two tenants lived in the property full time. This is not a case like *Camfield*, where no-one knew anything about the enigmatic Ms Tang and her brief occupation of the relevant property in that case; or the even more elusive Ms Anyanwu in *O'Halloran*. Ms Bowers knew and got on with the other two tenants for most of the tenancy. She then fell out with them towards the end, as a result of the tenancy coming to an end because of the Applicant's desire to move out. The other tenants blamed the Applicant for them, in her words, "losing their home". The falling out was not contested by the Respondent. As a whole, the circumstances at the end of the Applicant's period of occupation, strongly support the inference that the property was both the Applicant's main home, and the only home of the other two tenants.
24. We are satisfied that the evidence, and the inferences to be drawn from the evidence, showed, to the criminal standard, that it was both Ms Bowers main home, and the only home of the other two tenants.
25. We also reject Mr Hart's submissions in respect of reasonable excuse.
26. In the context of this offence, we do not think that simply not knowing that a licence was necessary can provide any basis for a reasonable excuse. Any landlord letting property for others to use as their home for economic gain is under an obligation to ensure that they are able to meet their legal obligations. The evidence of Ms Malik was that the Respondent had a number of other properties that he let, including

both residential and commercial. He should have had in place systems to allow him to understand and comply with his legal obligations.

27. We accept that his illness, even before his stroke, may have been enough for him to have to make alternative arrangements for the management of his properties. That he did, by asking his daughter to manage the properties for him. It seems that, as far as routine maintenance went, she did a reasonable job. However, she did not have in place any sort of system to ensure that she was able to brief herself as to the Respondent's legal responsibilities, and to comply with them. In answer to a question from the Tribunal, she said that she was not a member of any of the landlord organisations, but had more recently realised that it was advantageous to be so. Her father had just told her to seek informal advice from the letting agents, which she did. This was informal, as there was no management contract with the agency, and any advice was gratuitous. Mr Hart did not suggest that reliance of advice from the letting agent would have given grounds for a reasonable excuse, and quite rightly so (cf *Aytan v Moore* [2022] UKUT 27 (LC), [2022] HLR 29). Mr Malik could have engaged a professional managing agent, and could have secured access to the appropriate resources, some free, (such as membership of the local housing authority's landlord's forum) or inexpensive (membership of a landlord's organisation) but chose not to. That choice does not provide a reasonable excuse.

28. Nor do we think the non-routine nature of HMO licensing legislation provides a reasonable excuse. If it did, few landlords would not be able to avail themselves of it, which cannot be an intended feature of this regulatory system. In *Marigold*, the Upper Tribunal relied on and quoted from *Perrin v HMRC* [2018] UKUT 156 (TCC), as cited by Mr Hart. The quotation goes on

“It will be a matter of judgment for the FTT in each case whether it was objectively reasonable for the particular taxpayer, the circumstances of the case, to have been ignorant of the requirement in question ...”.

It is not objectively reasonable for a landlord in Mr Malik's position to be ignorant of the requirement to licence an HMO.

29. We reject the suggestion that these three elements may not be individually effective to amount to a reasonable excuse, but they may do so cumulatively. In reality, the first and third cover the same ground. The first is factual ignorance, the second a reason for factual ignorance. The second is a good reason to make appropriate arrangements, but those arrangements were not made. They no more cumulatively amount to a reasonable excuse than they do individually.

30. We find, beyond a reasonable doubt, that the offence was committed by the Respondent. We have a discretion, to be only very rarely exercised,

not to make an RRO when we have found the offence made out. There is no reason to exercise the discretion in this case.

The amount of the RRO

31. In considering the amount of an RRO, the Tribunal will take the approach set out in *Acheampong v Roman and Others* [2022] UKUT 239 (LC) at paragraph 20:

“The following approach will ensure consistency with the authorities:

(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. ...

(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 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).”

32. We add that at stage (d), it is also appropriate to consider any other of the circumstances of the case that the Tribunal considers relevant.

33. In respect of the relationship between stages (c) and (d), in *Acheampong* Judge Cooke went on to say at paragraph [21]

“I would add that step (c) above is part of what is required under section 44(4)(a) [conduct of the parties]. It is an assessment of the conduct of the landlord specifically in the context of the offence itself; how badly has this landlord behaved in committing the offence? I have set it out as a separate step because it is the matter that has most frequently been overlooked.”

34. As to stage (a), by sections 44(2) and (3) of the 2016 Act, the maximum possible RRO is the rent paid during a period of 12 months, minus any universal credit (or Housing Benefit – section 51) paid during that period.

35. It was agreed that the rent for 12 months was £8,604. The Applicant was not claiming benefits during the relevant period.

36. The tenants paid directly for utilities, so there is no deduction to be made at stage (b).
37. In assessing the seriousness starting point under stage (c), there are two axes of seriousness. The first is the seriousness of the offence, compared to the other offences specified in section 41 of the 2004 Act. The offence under section 72(1) is significantly less serious than those in rows 1, 2 and 7 in the table in section 40 of the 2016 Act, and we take that into account (see *Ficcara v James* [2021] UKUT 38 (LC), paragraphs [32] and [50]; *Hallet v Parker* [2022] UKUT 239 (LC), paragraph [30]; *Daff v Gyalui* [2023] UKUT 134 (LC), paragraphs [48] to [49] and the discussion in *Newell v Abbott and Okrojeck* [2024] UKUT 181 (LC), paragraphs [34] to [39]).
38. We turn to the seriousness of the offence committed by the Respondents compared to other offences against section 72(1). In doing so, we also consider the conduct of the parties. While this strictly speaking is a matter under stage (d), it is, in this case as in many others, sufficiently closely associated with the seriousness of the offence that it is more convenient to consider conduct at the same time.
39. We do so mindful of what the Deputy President said in *Newell* at paragraph [61]:

“The Tribunal has said in the past that it is not possible to be prescriptive about the sort of conduct which might potentially be relevant under section 44(4), 2016 Act (see *Kowalek*, at paragraph [38]). But that should not be taken as an invitation to landlords and tenants to identify every possible example of less than perfect behaviour to add to the tribunal scales in the hope of increasing or reducing the penalty. When Parliament enacted Part 2 of the 2016 Act it cannot have intended tribunals to conduct an audit of the occasional defaults and inconsequential lapses which are typical of most landlord and tenant relationships. The purpose of rent repayment orders is to punish and deter criminal behaviour. They are a blunt instrument, not susceptible to fine tuning to take account of relatively trivial matters. Yet, increasingly, the evidence in rent repayment cases (especially those prepared with professional or semi-professional assistance) has come to focus disproportionately on allegations of misconduct. Tribunals should not feel that they are required to treat every such allegation with equal seriousness, or to make findings of fact on them all. The focus should be on conduct with serious or potentially serious consequences, in keeping with the objectives of the legislation. Conduct which, even if proven, would not be sufficiently serious to move the dial one way or the other, can be dealt with summarily and disposed of in a sentence or two.”

40. In this case, we do not think there is any matter either way that, in the words of the Deputy President, move the dial.
41. There was a persistent problem with the boiler, in respect of which, to a limited degree, there were competing accusations of poor conduct. It seems reasonably clear to us on the evidence that the boiler was malfunctioning as a result of a leak in a radiator which resulted in low pressure in the boiler. The plumber who attended more than once took longer than should have been the case to identify the issue. In the meantime, the tenants had had to increase the pressure in the boiler by adding water from the mains. At some point, it seems that they may have accidentally cut off the boiler connection when seeking to re-pressure the boiler. The result was continued malfunctioning of the boiler, and a report of misuse by the plumber. We do not think anyone is to blame for this sequence of events, except perhaps the plumber.
42. That an out of date EIRC was provided to the Applicant, when there was a valid EIRC in place, is trivial.
43. The Applicant's evidence, upon which she based submissions as to quantum, was to the effect that the ending of the tenancy (as a result of the Applicant's desire to leave) was (in our word, not hers) "fractious", both between the Applicant and Ms Malik, and (perhaps more), between the Applicant and the other tenants. We do not think the landlord can be fixed with responsibility for what was, no doubt, an anxious and unpleasant period for the Applicant.
44. At one point, the Applicant was briefly in arrears, but paid during the course of the month. Again, we consider this a minor matter we do not need to take into account.
45. No claim in respect of the financial circumstances of the landlord was made, either in advance or at the hearing.
46. In assessing the quantum of the RROs at stages (c) and (d), we have taken account of the guidance provided by the Upper Tribunal, including particularly where the Upper Tribunal has substituted percentage reductions in making a redetermination. The key cases are set out in (with respect) a most helpful manner in the course of the redetermination in *Newell v Abbott and Okrojeck* [2024] UKUT 181 (LC) from paragraph [47] to [57]. We do not repeat that material here, but have been guided by it.
47. Summing up, the Deputy President said this, at paragraph [57]:

"the level of rent repayment orders varies widely depending on the circumstances of the case. Awards of up to 85% or 90% of the rent paid (net of services) are not unknown but are not the norm. Factors which have tended to result in higher

penalties include that the offence was committed deliberately, or by a commercial landlord or an individual with a larger property portfolio, or where tenants have been exposed to poor or dangerous conditions which have been prolonged by the failure to licence. Factors tending to justify lower penalties include inadvertence on the part of a smaller landlord, property in good condition such that a licence would have been granted without additional work being required, and mitigating factors which go some way to explaining the offence, without excusing it, such as the failure of a letting agent to warn of the need for a licence, or personal incapacity due to poor health.”

48. As we have indicated, we do not think there was anything to indicate either serious aggravation or serious mitigation of the seriousness of the offence in this case. It is therefore similar to the situation in *Newell v Abbott* itself, in which, on redetermination, the Deputy President awarded an RRO of 60% of the maximum. Ten per cent of that reflected the fact that the offending had occurred over a long time period. We had no evidence that that was the case here. Accordingly, we consider that a 50% award is appropriate.

Reimbursement of Tribunal fees

49. The Applicant, who was acting in person, did not make an application for the reimbursement of hearing fees under Rule 13(2) of the Rules. However, in the light of our findings, we make the order on our own initiative. The sum of that order is £341, for both application and hearing fee.

Rights of appeal

50. 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 London regional office.
51. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
52. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
53. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Tribunal Judge Professor Richard Percival **Date:** 8 October 2026

Appendix of Relevant Legislation

Housing Act 2004

72 Offences in relation to licensing of HMOs

(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.

Housing and Planning Act 2016

40 Introduction and key definitions

- (1) This Chapter confers power on the First-tier Tribunal to make a rent repayment order where a landlord and 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.
- (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 to that landlord.

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
7	This Act	section 21	breach of banning order

- (4) For the purposes of subsection (3), an offence under section 30(1) or 32(1) of the Housing Act 2004 is committed in relation to housing in England let by a landlord only if the improvement notice or prohibition order mentioned in that section was given in respect of a hazard on the premises let by the landlord (as opposed, for example, to common parts).

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.
- (3) A local housing authority may apply for a rent repayment order only if –
- (a) the offence relates to housing in the authority's area, and
 - (b) the authority has complied with section 42.
- (4) In deciding whether to apply for a rent repayment order a local housing authority must have regard to any guidance given by the Secretary of State.

42 Notice of intended proceedings

- (1) Before applying for a rent repayment order a local housing authority must give the landlord a notice of intended proceedings.
- (2) A notice of intended proceedings must—
- (a) inform the landlord that the authority is proposing to apply for a rent repayment order and explain why,
 - (b) state the amount that the authority seeks to recover, and (c) invite the landlord to make representations within a period specified in the notice of not less than 28 days ("the notice period").
- (3) The authority must consider any representations made during the notice period.
- (4) The authority must wait until the notice period has ended before applying for a rent repayment order.

(5) A notice of intended proceedings may not be given after the end of the period of 12 months beginning with the day on which the landlord committed the offence to which it relates.

43 Making of a 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 had 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 with –
 - (a) section 44 (where the application is made by a tenant);
 - (b) section 45 (where the application is made by a local housing authority);
 - (c) section 46 (in certain cases where the landlord has been convicted etc).

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 this 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 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
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 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,
 - (c) whether the landlord has at any time been convicted of an offence to which this Chapter applies.