

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AS/HMF/2026/0013**
Property	**:**	**Outbuilding at 110 Hartland Drive, Ruislip, London, HA4 0TJ**
Applicant	**:**	**Malgorzata Bisior**
Representative	**:**	**None**
Respondent	**:**	**Mariusz Bogdanowicz**
Representative	**:**	**None**
Type of application	**:**	**Application for a rent repayment order by tenant**
Tribunal member(s)	**:**	**Judge D Gethin** **Mr J Stead**
Date and Venue	**:**	**26 August 2026, 10 Alfred Place, London, WC1E 7LR**
Date of decision	**:**	**14 October 2026**

DECISION

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Summary of the Decision of the Tribunal

(1) The Tribunal dismisses the application for a rent repayment order.

(2) The reasons for our decisions are set out below.

(3) Tribunal makes no order for the reimbursement of tribunal fees.

(4) The application by the Respondent for costs under rule 13 is REFUSED.

The background to the Application

1. On 18 September 2025, the Tribunal received an application under section 41 of the Housing and Planning Act 2016 ("the 2016 Act") from the applicant tenant for a rent repayment order ("RRO") in respect of accommodation which they occupy at 110 Hartland Drive, Ruislip, London, HA4 0TJ.

2. It is asserted that the Respondent committed an offence under section 72(1) Housing Act 2004 ("the 2004 Act") of having control or management of an unlicensed house in multiple occupation ("HMO").

3. In the alternative, it is asserted that the Respondent committed an offence of causing harassment, intimidation and aggression against the Applicant and her partner and/or unlawful eviction contrary to the Protection from Eviction Act 1977 ("the 1977 Act"). The Applicant states that throughout their occupation they experienced aggression, harassment, frequent disconnection of the internet, lack of access to the semi-detached house at 110 Hartland Drive ("the Main Dwelling") to collect letters and parcels, frequent switching off of the electrical supply non-functioning fridge, lack of hot water, and that they suffered a persistent feeling of danger. They say that they received two weeks' notice to quit on 22 July 2024 with a threat that the internet would be disconnected.

4. In the event, the Applicant and Mr Podkowka left the Property on 22 September 2024.

5. The Applicant sought a rent repayment order from 2000 until 2024 in the total sum of £48,200.00. The Tribunal can only award up to 12-months' rental as a RRO, and therefore will make a determination as to whether to repay £13,000 being 12-months' rent.

6. On 13 March 2026, the Tribunal gave Directions, pursuant to which:

(i) the Applicant had filed a Bundle of Documents which extended to 121 pages. The Bundle did not include any witness statements.

(ii) the Respondent had filed an unpaginated pdf Bundle of Documents which extended to 175 pages which included witness statements from the Respondent dated 11 May 2026 [R17], Dawid Burski dated 7 May 2026 [R118], Zygmunt Bojka dated 5 July 2026 [R119] and Damian Szajkowski dated 2 May 2026 [R165].

7. References to [A123] etc in this decision are to pages taken from the Applicant's Bundle whilst references to [R123] etc in this decision are to the electronic pages taken from the Respondent's Bundle unless otherwise specified.

8. On 12 August 2026, the Applicant submitted a witness statement from her partner, Dominik Podkowka. The Respondent objected to the admission of the late evidence on the basis that he had not sufficient time to consider its contents.

The Hearing

9. The Applicant attended the hearing together with her partner, Mr Podkowka. Mrs Marzena Magdalena Dzulik, a Tribunal instructed interpreter, attended to interpret the proceedings on behalf of the Applicant.

10. The Respondent attended the hearing together with Miss Monica Pelka, his support representative, who made submissions on his behalf.

11. The Applicant argued that the Property was an unlicensed HMO and that as such she was entitled to claim an RRO. The Applicant gave evidence on this issue. The Respondent also gave evidence.

12. In the alternative, the Applicant argued that the Respondent had harassed or unlawfully evicted the Applicant and that as such she was entitled to claim an RRO. The Applicant gave evidence on this issue. The Respondent also gave evidence.

13. As a preliminary issue, we needed to decide whether to admit the witness statement of Mr Podkowka, the Applicant's partner. We decided to admit the statement for the reasons that the Respondent had had sufficient opportunity to consider the document and that it was of relevance to the issues in dispute, and that it would be in the interests of justice to admit it.

14. In the event, neither the Respondent nor the Tribunal sought to put questions to Mr Podkowka on the contents of his statement. The statement would be better described as a re-wording of the Applicant's previous statement of case rather than a witness statement of facts in the knowledge of Mr Podkowka. We find that the contents of the statement did not materially advance the Applicant's case, and we gave the statement extremely limited weight accordingly.

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

15. Section 40 of the 2016 Act 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.*

16. Section 40(3) provides a list of seven offences. These include an offence under section 72(1) of the 2004 Act relating to "*control or management of an unlicenced HMO*" and an offence under section 1(2), (3) or (3A) of the 1977 Act relating to the "*eviction or harassment of occupiers*".

17. 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.*

18. 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).*

19. 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:

> *(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.*

20. 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.*

<u>The Housing Act 2004 ("the 2004 Act")</u>

21. Part 2 of the 2004 Act relates to the licensing of HMOs. Section 61 provides for every prescribed HMO to be licensed. It is open to local housing authorities to adopt additional licencing schemes. We were not taken to evidence that the London Borough of Hillingdon ("the LA") has elected to do so. We are therefore required to consider the mandatory licencing arrangements.

22. HMOs are defined by section 254 which includes a number of "*tests*". Section 254(2) provides that a building or a part of a building meets the "*standard test*" if (emphasis added):

(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.

23. Section 254(8) defines "*basic amenities*":

"basic amenities" means–

(a) a toilet,

(b) personal washing facilities, or

(c) cooking facilities

24. Section 254(8) also defines a "*self-contained flat*":

"self-contained flat" means a separate set of premises (whether or not on the same floor)–

(a) which forms part of a building;

(b) either the whole or a material part of which lies above or below some other part of the building; and

(c) in which all three basic amenities are available for the exclusive use of its occupants.

25. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 prescribes those HMOs that require a licence. Article 4 provides that an HMO is of a prescribed description if it (a) is occupied by five or more persons; (b) is occupied by persons living in two or more separate households; and (c) meets the standard test under section 254(2) of the 2004 Act.

The Protection from Eviction Act 1977 ("the 1977 Act")

26. Part 1 of the 1977 Act relates to unlawful eviction and harassment of an occupier.

27. The offences under section 1 of the 1977 Act by which an occupier may seek a RRO are as follows:

> *(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;*
>
> *(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—*
>
> *(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;*
>
> *and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or*

pursuing any remedy in respect of the whole or part of the premises

(3B) A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.

The Property

28. The Property is an outbuilding to the rear of the Main Dwelling which had been converted into and used since 1 March 2020 as a 1-bedroom studio with a double bed and worktop for cooking facilities and food preparation, together with a separate bathroom in which there was a sink for washing, shower and toilet.

29. A plan of the Property dated November 2024 [R28] showed a sink in the worktop, but it was not evident from the Respondent's photos that there is a sink within the studio bedroom part of the Property [R173-R175] and the Applicant's oral evidence was that washing of plates and pots was undertaken in the bathroom. From the Respondent's photos, it was seen that a washing machine was also placed in the bathroom [R171-R172]. Based on the photos, together with the parties' oral evidence, the washing machine is plugged into a socket within the bathroom.

30. The Property has a paved driveway directly outside the door of the Property on which the Applicant parked her car. There are electrically operated gates across the driveway, by which the Applicant can access the Property from the road, and on the boundary between the driveway and the rear garden of the Main Dwelling is a wooden fence with gate.

31. The parties explained during oral evidence that the electricity and water supplies for the outbuilding come from, and can be isolated within, the Main Dwelling. The Wi-Fi router was also based within the Main Dwelling. The Applicant contends that services to the Property were routinely interfered with by occupiers of the Main Dwelling.

32. The outbuilding had not been granted planning permission for use as a self-contained unit of accommodation when first converted. As a result of enquiries made by the Applicant's solicitors in July 2024, the Respondent retrospectively applied for, and was subsequently granted, a Certificate of Lawful Existing Use or Development ("CLEUD") by the LA dated 17 July 2025 [R18-R28].

33. This point was not drawn to the Tribunal's attention by either party, but drawing on our own experience as a specialist tribunal we express our surprise, given the small size of the bathroom, that the LA had not raised concerns regarding the use of a 3-pin electrical socket for the washing machine located in the bathroom when granting the CLEUD. That would appear to be a breach of the electrical regulations (BS 7671) in that it would be located within either a Zone 1 or Zone 2 area.

34. However, absent evidence that the Respondent has failed to comply with an improvement notice or prohibition notice under sections 30(1) and 32(1) of the 2004 Act respectively, any breach of such regulations does not constitute an offence under which an RRO might be made.

35. Similarly, the Respondent's failure to have secured a CLEUD for the entirety of the Applicant's occupation of the Property might render the Property unlawful in terms of planning land used, but that also does not fall within one of the offences listed in section 40(3) of the 2016 Act.

36. It is not disputed by the parties that the standard test under s.254 of the 2004 Act applies to all units of living accommodation within the Main Dwelling and as such that the Main Dwelling might be an HMO required to be licensed, namely:

    (i) that there are 6 units of living accommodation not consisting of self-contained flats;
    (ii) that the living accommodation is occupied by persons who do not form a single household;
    (iii) that the living accommodation is occupied by those persons as their only or main residence;
    (iv) that their occupation constitutes the only use of that accommodation;
    (v) that the rents payable are in respect of the persons' occupation of the living accommodation; and
    (vi) that two or more households share a basic amenity, namely cooking facilities.

37. However, that is of no relevance to the question of whether the Property is self-contained, i.e. separate from the Main Dwelling not requiring the Applicant to share a basic amenity with the occupiers of the Main Dwelling, such that it does not fall within the definition of an HMO.

The Applicant's Case

38. The Applicant states that she occupied the Property situated within the grounds and to the rear of 110 Hartland Drive between October 2020 and

September 2024 together with her partner. She described the accommodation as an outbuilding without its own kitchen and contends that throughout her occupation there were numerous occupiers within the Main Dwelling.

39. The Applicant alleges that the total number of occupiers regularly exceeded the threshold for mandatory HMO licensing, which is not disputed, and that no HMO licence existed. After the Applicant had left the Property, and before the date of the hearing, the Respondent had sold the Main Dwelling and the Property. The Applicant contends that the Respondent operated the Property for commercial gain whilst failing to comply with housing legislation.

40. The Respondent accepts that the Applicant, and her partner, occupied the Property but contends that it constituted a separate, self-contained residential unit and therefore should not be aggregated with occupiers of the main house for HMO licensing purposes. The Respondent further relies upon the CLUED issued by the LA relating to the Property.

41. The Applicants maintain that the later grant of a CLUED in July 2025 does not negate the alleged unlawfulness of the use during their occupation.

42. The Applicant alleges that from approximately 2023 onwards they were subjected to a campaign of harassment which included:

- repeated interruption of electricity.
- interference with internet access.
- interference with access to mail and parcels following lock changes to the main house.
- intimidation by other occupiers allegedly encouraged by the Respondent.
- aggressive behaviour, shouting, banging on doors and anti-social conduct.

43. The Applicant further contends that:

- a message sent on 22 July 2024 [A35 and R143] amounted to an unlawful notice requiring them to vacate.
- following a solicitor's letter before claim dated 22 July 2024 [A27-A35] enclosing a copy of the message dated 22 July 2024, the Respondent intensified the alleged harassment.
- they were effectively forced to leave in September 2024.

- Police were involved during incidents in the period leading to their departure and police CAD references [A37] are relied upon.

44. The Applicants also rely on an email of 5 September 2024 [A88-A89] complaining of electricity disconnections, lack of internet access, inability to collect correspondence and ongoing harassment.

The Respondent's Case

45. The Respondent denies any HMO offence and contends that:

- the outbuilding was an independent self-contained dwelling.
- it should not be treated as part of any HMO within the main house.
- the local authority subsequently issued a CLUED confirming lawful use of the outbuilding as a self-contained residential unit.

46. The Respondent relies heavily on the CLUED granted by the LA on 17 July 2025. The certificate states that the authority had been satisfied that the use had existed continuously for at least four years prior to the application.

47. The Respondent denies all allegations of harassment and unlawful eviction. His case is that:

- he did not reside at the property.
- his attendance at the property was confined to management and maintenance matters.
- the Applicants left voluntarily in September 2024.
- no unlawful eviction occurred.
- no police action, warning, caution or prosecution arose from any allegations against him.

48. The Respondent further contends that:

- maintenance issues were dealt with promptly, including roof and heating problems.
- there was no deliberate disconnection of utilities.
- the Applicants retained practical access to the main property.
- witnesses support his account and dispute the allegations of harassment

49. The Respondent relies upon photographs, maintenance records, witness statements, EICR documentation and communications which he says undermine the Applicant's account.

Discussion and Reasons for the Decision

50. The Applicant seeks an RRO on two grounds; first, that the Respondent committed an offence under section 72(1) of the 2004 Act of having control or management of an unlicensed HMO of which the Property is part and second, that the Respondent committed an offence of causing harassment, intimidation and aggression against the Applicant and her partner and/or unlawful eviction contrary to sections 1(2), (3) and (3A) of the 1977 Act.

First Ground – having control or management of an unlicensed HMO

51. We must determine as a preliminary issue whether the Property is in fact an HMO or is part of a building that is an HMO; the relevant issue is whether the Property meets the "*standard test*" as defined by section 254(2) of the 2004 Act. This specifies six criteria in sub-paragraphs (a) to (f). If the Property does not meet all six criteria, it is not part of an HMO, it does need to be licensed, and no offence has been committed.

52. Limbs (a)-(e) are not in dispute, but for the avoidance of doubt we find on the evidence that all are made out. The question that requires us to make a finding is whether limb (f) is made out, namely whether the Applicant shares one or more basic amenities or the Property is lacking in one or more basic amenities, namely a toilet, personal washing facilities or cooking facilities.

53. The Upper Tribunal decision in *Barker v Shokar* [2014] UKUT 17 (LC) is authority for the position that to meet the definition of self-contained accommodation, the accommodation must have all three of the basic amenities.

54. The Applicant's oral evidence confirmed that neither herself, nor Mr Podkowka, ever used the Main Dwelling for any of the basic amenities. They collected their post from the Main Dwelling, and if the washing machine was ever broken, Mr Podkowka would undertake laundry within the Main Dwelling, but these are not basic amenities. They therefore did not share one or more basic amenities with another household.

55. As regards to whether the Property lacked any of the basic amenities, the written and oral evidence shows that the Applicant had a toilet and personal washing facilities.

56. The decision in *Barker v Shokar* does not go on to give any indication as to what would satisfy the meaning of "*cooking facilities*". It simply recorded at paragraph 17 that the First-tier Tribunal ("FTT") had observed during its inspection of Ms Shokar's flat that the "*room is a large high ceiling space with a converted area to the rear that contained a small kitchen type space and a toilet and shower area*". No further description is made as to what cooking facilities were provided by the "*small kitchen type space*". This point was not raised by either party other than each party providing some clarification in response to the Tribunal's questions.

57. However, the definition of "*cooking facilities*" was considered in the Upper Tribunal decision in *Oxford Hotel Investments Ltd v Great Yarmouth Borough Council* [2025] UKUT 387 (LC). HHJ Johns KC provides a helpful analysis of the previous case law he considered when reaching his decision, and so we do not record that here save to say that neither the FTT nor subsequently the UT in *Barker v Shokar* had decided that a microwave satisfied the statutory definition.

58. Given the purpose of the of the 2004 Act is to "*protect vulnerable and disadvantaged occupiers such that it is very important that buildings which should be treated as HMOs do not escape statutory control*" HHJ Johns KC decided that "*it is unlikely to have been intended by Parliament that this statutory regulation could be escaped by the simple expedient of plugging in a microwave*", see §23 of *Barker v Shokar*.

59. Section 65 of the 2004 Act consider the standards that may so be prescribed when a local authority is considering whether a house is reasonably suitable for occupation by a particular maximum number of households or persons. This includes at section 65(4)(a)(ii) "*areas for food storage, preparation and cooking*".

60. At §28 of *Barker v Shokar*, HHJ Johns KC concluded:

> "*This appeal has been concerned with particular facts. What might be called a full kitchen would clearly be within the meaning of cooking facilities in s.254. There could be little doubt about such a conclusion where there was a worktop for the preparation of food, cupboards for the storage of food as well as for pans, crockery and cutlery, a sink for washing up, and a cooker and hob*

> *occupying a dedicated space provided between the kitchen units for it. The further the facts move away from that full kitchen, the harder it will become to describe what is provided as cooking facilities. The particular facts of this case have, in my judgment, moved too far away to be described as cooking facilities. Those facts are that there is no relevant storage, no food preparation area, and just a microwave with fridge and kettle.*"

61. We would simply note that there are a number of portable appliances that might allow a person to cook a meal which include a microwave but might also include a Baby Belling (an electric compact, countertop, oven, grill and hotplates), a slow cooker or an air fryer. We do not consider the absence of a "*cooker and hob occupying a dedicated space provided between the kitchen units for it*" to be determinative of the question as to whether the Property has cooking facilities.

62. The Applicant's oral evidence was that all cooking was carried out using a slow cooker placed on the countertop in the studio bedroom part of the Property.

63. Although the plan of the Property dated November 2024 [R28] showed a sink in the worktop near the window, we conclude based on the Applicant's photo [A110] and the Respondent's photos [R173-R175] and the Applicant's oral evidence was that washing of plates and pots was undertaken in the bathroom that there is no sink within the studio bedroom part of the Property.

64. We could see from the same photos a countertop with two double sockets, an undercounter double cupboard and four drawers together with two wall cupboards (one of which was partly not useable due to the inclusion of a consumer unit) for storage of crockery and cutlery and non-perishable food items. There was evidence of a slow cooker as well as bowls, chopping boards, food storage items and cutlery laid out on the countertop [A110].

65. We conclude that when taken together, the countertop for food preparation, storage cupboards, the Applicant's use of a slow cooker and sockets for the use of other portable appliances or a kettle, that the Property did have cooking facilities notwithstanding the absence of a separate sink. In arriving at that decision, we have disregarded the fact that the Applicant and Mr Podkowka did not choose to use the cooking facilities in the Main Dwelling, whether entitled to do so or not, as that is not a relevant consideration.

66. Having satisfied ourselves that the Applicant neither shared any one of the basic amenities with another household nor was the Property lacking in any one of the basic facilities, we conclude that the Property was self-contained accommodation and therefore did not need to be licensed as an HMO even if the units of accommodation within the Main Building so required.

67. Consequently, we find that the Respondent had not committed an offence under section 72(1) of the 2004 of having control or management of an unlicensed HMO.

Second Ground – eviction or harassment of occupiers

68. We must consider whether it has been shown to the standard of beyond reasonable doubt that the Respondent has committed one or more of the offences under section 1(2), (3) or (3A) of the 1977 Act.

69. Based on the written and oral evidence of both parties, we make the following findings:

    (i) the Respondent did send a text message on 5 July 2024 at 4:45pm [R144] stating that "*In 2 weeks I will be bringing in my construction tools .... I will need an empty Outbuildind [Outbuilding] .... and drive way .... I am giving you 2 weeks notice to take your things ok Internet will also not be [available] from 21.07.2024 .. I am stopping paying .... Regards Mariusz*";
    (ii) in response, the Applicant's solicitor wrote to the Respondent regarding that text on 22 July 2024 [A29-A35] and there was no evidence of further threats to evict after that date
    (iii) the Applicant did suffer interference with the water supply, electricity supply and Wi-Fi service to the Property, but it was not for the period of 18 months as alleged;
    (iv) the Applicant notified the Respondent of her intention to leave the Property on 18 September 2024 at 2:04am and did so on or before 22 September 2024 [107-A108].

70. The Respondent submits that the Applicant, or Mr Podkowka, had interfered with the electrical socket on the red tiled wall which may have resulted in a loose connection [147-151]. A loose wall socket connection may go some way to explaining the sudden and repeated disconnection of electrical power.

71. The Respondent's text message was, at best, ill judged. That was addressed in the Applicant's solicitors' letter, and we do not find that

taken on its own, and given the fact that the Respondent did not move his tools into the Property as he had proposed to do and the Applicant remained in occupation beyond 21 July 2024, that constitutes a criminal offence.

72. We accept, in light of the Respondent's text message dated 5 July 2024 [R144], that the Applicant's Wi-Fi service was stopped from 21 July 2024 until the end of her occupation, but we find that this comprises harassment.

73. The Applicant also gave oral evidence regarding interference with her water supply and electricity supply, both of which can be controlled from within the Main Dwelling. She also gave oral evidence regarding the conduct of the occupants within the Main Dwelling hosting noisy parties in the garden close to the Property thereby causing a nuisance and disturbance. The Applicant said that the Respondent was friends with some of the occupants. She felt that the Respondent encouraged such behaviour or, at the very least, failed to prevent it.

74. We conclude that the Applicant suffered interference with her electrical supply but based on the written evidence, we find that only began on 11 August 2024 [R88-R89]. We note that no mention of interference with services was made in the Applicant's solicitors' letter dated 22 July 2024 [A29-A35], only reference to alleged illegal eviction by way of the text message sent on 5 July 2024, alleged harassment by way of "*repetitive, intrusive and intimidating phone calls*" and alleged failure to allow the Applicant to collect her post from the Main Dwelling.

75. We are not satisfied on the evidence that the cause of the electrical outages was the Respondent, or the occupants of the Main Dwelling, turning off the supply from within the Main Dwelling. Even if it was, we are not satisfied beyond reasonable doubt that it was the Respondent who did this or that the occupants of the Main Dwelling did so on the instructions of the Respondent.

76. With respect to the interference with the water supply, we note that no mention of this was made in either the solicitors' letter [A29-A35] or in the Applicant's email to the Respondent dated 5 September 2024 [A88-A89]. We conclude that any interference was therefore limited and to a far lesser extent and for a shorter period than that alleged.

77. We accept that harassment by a person may be affected by instructing another party to do so on their behalf. There was evidence that Mr Podkowka may have had a falling out with some of the occupants in the Main Dwelling. We cannot rule out the possibility that the occupants

interfered with services in retaliation for any disagreement and not on instruction of the Respondent.

78. Having regard for the above, we conclude that no offence under section 1(2), (3) or (3A) of the 1977 Act has been committed by the Respondent.

Dismissal of the application for a Rent Repayment Order

79. Having found that none of the alleged offences have been committed, we must dismiss the application for an RRO.

80. We would comment at this point that even if we had found that an offence had been made out under the Second Ground, we would have likely only made a RRO for a period of 3 months absent evidence of the conduct alleged having taken place earlier than that date.

Reimbursement of Tribunal Fees

81. Since the substantive application has been dismissed, no order is made for the Respondent to reimburse the Applicant's tribunal fees.

Rule 13 Costs' Application

82. Rule 13(1)(b) provides:

83. *13.—(1) The Tribunal may make an order in respect of costs only—*
…

(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in—
(i) an agricultural land and drainage case,
(ii) a residential property case, or
(iii) a leasehold case; or…

84. The three stages that the tribunal need to go through when considering whether a costs order should be made under Rule 13 are set out in *Willow Court Management Company Ltd v Mrs Ratna Alexander* [2016] UKUT (LC) ("*Willow Court*") at paragraphs 27 and 28 which are set are below.

> *27 When considering the rule 13(1)(b) power attention should first focus on the permissive and conditional language in which it is framed: "*the Tribunal may make an order in respect of costs only … if a person has acted unreasonably*…." We make two obvious points: first, that unreasonable conduct is an essential pre-condition of the power to order costs under the rule; secondly, once the existence of*

the power has been established its exercise is a matter for the discretion of the tribunal. With these points in mind we suggest that a systematic or sequential approach to applications made under the rule should be adopted.

28 At the first stage the question is whether a person has acted unreasonably. A decision that the conduct of a party has been unreasonable does not involve an exercise of discretion but rather the application of an objective standard of conduct to the facts of the case. If there is no reasonable explanation for the conduct complained of, the behaviour will properly be adjudged to be unreasonable, and the threshold for the making of an order will have been crossed. A discretionary power is then engaged and the decision maker moves to a second stage of the inquiry. At that second stage it is essential for the tribunal to consider whether, in the light of the unreasonable conduct it has found to have been demonstrated, it ought to make an order for costs or not; it is only if it decides that it should make an order that a third stage is reached when the question is what the terms of that order should be.

85. What does it mean for a person to have acted unreasonably? In *Lea & Ors v GP Ilfracombe Management Company Limited* [2024] EWCA Civ 1241, the Court of Appeal approved and followed the decisions in *Ridehalgh v Horsefield & Anr* [1994] Ch 205 ("*Ridehalgh*") and *Willow Court*.

86. Firstly, neither *Ridehalgh* nor *Willow Court* decided that unreasonable conduct must involve vexatious conduct or harassment. Secondly, that deciding whether or not there has been unreasonable conduct, and if so, whether an adverse order for costs should be made, is a fact-specific exercise. Although sufficient guidance in respect of rule 13(1)(b) had been set out in *Ridehalgh* and *Willow Court*, a good practical rule is for the Tribunal to ask: would a reasonable person acting reasonably have acted in this way? Is there a reasonable explanation for the conduct in issue?

87. Following the hearing, and before our substantive decision was issued to the parties, the Tribunal received a rule 13 application from the Respondent on 28 August 2026. The Applicant responded to the application on 15 September 2026. Although the Applicant had not been directed to do so, we have had regards to the Applicant's submissions.

88. The Respondent seeks costs in the sum of £7,430.00 with the proviso that any order should require the Applicant to pay the sum awarded to the Access to Justice Foundation.

89. The Respondent submits that the claim was founded upon false allegations, constituted an abuse of the Tribunal's resources and was pursued for financial gain.

90. The Respondent submits that the Applicants' case was constructed around an allegation of illegal eviction which was shown during oral evidence to be untrue. He contends that the Applicants had already secured alternative accommodation and paid a deposit for a new tenancy on 12 September 2024, before leaving the property. He therefore argues that the allegation that they were forced to leave was knowingly false and that the RRO application was based upon a fabricated account.

91. The Respondent argues that the Applicants alleged a campaign of aggression, intimidation and harassment but that, during cross-examination, Malgorzata Bisior accepted that she had not personally witnessed aggressive behaviour by him. He further submits that she was unable to say how frequently he attended the property. The Respondent maintains that this evidence was inconsistent with the allegations advanced in the application and supports his contention that the allegations were exaggerated or untrue.

92. The Respondent submits that he acted throughout in good faith, made repeated attempts to communicate with the occupiers, and only requested that they seek alternative accommodation after they had failed to engage with him

93. The Respondent contends that complaints made to the London Borough of Hillingdon were retaliatory and without foundation. He submits that inspections revealed no housing offences and that the complaints caused him financial loss because he incurred expenditure obtaining a Certificate of Lawful Existing Use or Development ("CLUED"). He argues that this supports his contention that the Applicants acted vexatiously.

94. The Applicant alleges in her rule 13 response that the Respondent "*committed deliberate deception of the Tribunal, perjury and fraud*". We have made no such finding. She also alleges that the Respondent has breached section 48 of the Landlord and Tenant Act 1987 ("LTA 1987") by failing to provide a correspondence address in these proceedings. That is not a matter that is relevant to the decision under consideration.

95. The Applicant makes further submissions in the rule 13 response which amount to further submissions in the substantive application. We have not had regard to these as they were received after the hearing and permission was not granted for further written submissions to be made.

96. The Applicant objected to Miss Pelka acting on behalf of the Respondent during the hearing. She relies on the *Practice Guidance: McKenzie Friends Civil and Family Courts 2010* and sections 27-28 of the Legal Services Act 1990. With respect, these submissions were addressed during the hearing and are without merit. The Tribunal's rules and procedures permit a greater degree of flexibility. The role of a McKenzie Friend does not apply in the tribunal as it does in the courts. Rule 14(5) of 2013 Rules expressly provides that:

> *At a hearing a party may be accompanied by another person whose name and address has not been notified under paragraph (2) but who, with the permission of the Tribunal, may act as a representative or otherwise assist in presenting the party's case at the hearing*.

97. Such permission was provided by the Tribunal at the hearing for Miss Pelka to assist the Respondent in presenting his case including making submissions on his behalf.

98. Turning to Mr Podkowka's witness evidence, we have already addressed the reasons for not calling Mr Podkowka to answer questions at paragraph 14 as his statement had not, in fact, given evidence in respect of matters of fact. A witness will only need to be called if a witness is to be questioned on matters of fact that he or she has raised ahead of a hearing.

99. The Applicant submits that the Respondent's rule 13 application has been made "*solely as an act of revenge against the Applicants for seeking justice*".

Determination

100. The parties' relationship, which for the first few years of the tenancy had proceeded without incident, had clearly broken down some time before the Applicant left the Property. By the time of the hearing, that relationship was evidently acrimonious although both parties share responsibility for that.

101. Both parties addressed pre-action correspondence in the rule 13 application. It was unclear if this related to pre-action in these

proceedings, or the Applicant's solicitors' letter sent on 22 July 2024. If the latter, that is not a relevant matter to the determination of the rule 13 application. In respect of these proceedings, the Respondent has engaged and the application was determined at a final hearing at which both parties attended. We find that neither party's pre-action conduct in these proceedings is relevant to the determination as to whether the Applicant has acted unreasonably.

102. The Applicant's referral to the LA as to whether the Property had planning permission was not vexatious. The Respondent had failed to secure the necessary permission, and the Applicant was understandably concerned about living in a property that might not be considered habitable. The Respondent would at some point have been required to apply for CLEUD, and we do not consider the circumstances which led to that were vexatious.

103. The Respondent's submission that the Applicant's allegation of unlawful eviction was knowingly false and based upon a fabricated account is not supported by the evidence. Whilst we have not found the text message dated 5 July 2024 satisfied the criminal standard for an offence under section 1(3)(a), it was an ill-judged text to send that warranted a letter from a solicitor reminding the Respondent of his statutory duties. Nor do we find that the Applicant's efforts in securing other accommodation before leaving occupation of the Property prevents them from bringing an application for an RRO, otherwise the Tribunal could only consider making an RRO where there was evidence of homelessness. The question is whether a landlord with intent caused a residential occupier to give up occupation of the premises.

104. Whilst the Applicant was unable to satisfy us to the criminal standard that the Respondent engaged in a campaign of harassment, the Respondent did not dispute the fact that there had been interruptions in the services provided to the Property and no evidence was exhibited as to the Respondent's attempts to prevent the occupants of the Main Dwelling from causing a nuisance and annoyance to the Applicant and Mr Podkowka. There was also ample evidence of the Respondent generally failing to comply with the statutory duties of a landlord, and whilst those are not relevant matters in whether the alleged criminal offences have been committed they go to the question of the reasonableness of the Applicant in bringing the present application.

105. We find that the Applicant did not act unreasonably in bringing, conducting or pursuing the proceedings within the meaning of rule 13(1)(b). The Respondent's application for an order under rule 13(1)(b) is refused.

Name: Judge D Gethin **Date: 14 October 2026**

ANNEX – 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. Any appeal in respect of the Housing Act 1988 should be on a point of law.

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