

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AY/HMF/2026/0006**
Property	**:**	**26 Urlwin Street, London SE5 0NF**
Applicant	**:**	**Emily Roden**
Representative	**:**	**I/P**
Respondent	**:**	**Anna Best**
Representatives	**:**	**I/P**
Type of application	**:**	**Rent Repayment Order – s. 41 of the Housing and Planning Act 2016**
Tribunal members	**:**	**Judge Tagliavini** **Mr A Fonka FCIEH** **Mr W Gibbs**
Venue	**:**	**10 Alfred Place, London WC1R 7LR**
Date of Hearing **Date of Decision**	**:**	**5 November 2026** **6 November 2026**

DECISION

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The tribunal's decision

(1) The applicant's claim for a rent repayment order is dismissed.

(2) The tribunal declines to make an order for the reimbursement of the applicant's fees.

The application

1. This is an application for a rent repayment order alleging the respondent landlord has committed the offence of having the control or management of an unlicensed property situated at **26 Urlwin Street, London SE5 0NF ('the property')** that was required to be licensed.

The Background

2. The applicant was a joint tenant of the property, together with three other persons under a lease dated 09/09/2024 with effect from 09/09/2024 to 08/09/2025 at a rent of £2,880.00 per calendar month. The respondent was the landlord of the subject property. In the application to the tribunal, the applicant alleged:

> *I was a tenant at 28 Urlwin Street from 09/09/2024 to 08/09/2025…The property was licensed as an HMO for 4 persons in 4 households. I lived there with three other students…however the landlord…and the landlord's partner regularly stayed at the property for approximately one week per month… This increased the total occupancy to 6 people and breached the terms of the HMO licence, which permitted only 4. I was placed in the basement bedroom, which was damp, musty, had no soundproofing, and was unsuitable for habitation…*

The issue

3. Whether the offence of having the control or management of an unlicensed property had been committed by the respondent.

The law

4. Section 72(1) of the Housing Act 2004 provides:

> *If an HMO is required to be licensed under this Part (see section 61(1)) but is not so licensed, an offence is committed by—*
>
> *(a)any person within subsection (1A), and*
>
> *(b)any person who as landlord under a tenancy or licensor under a licence to occupy has an estate or interest in, or a right in relation to, the HMO that is superior (whether directly or*

indirectly) to the estate, interest or right of any person within subsection (1A).

5. Section 95(1) of the Housing Act 2004 provides:

> *(1)If a house is required to be licensed under this Part (see section 85(1)) but is not so licensed, an offence is committed by—*
>
> > *(a)any person within subsection (1A), and*
> > *(b)any person who as landlord under a tenancy or licensor under a licence to occupy has an estate or interest in, or a right in relation to, the house that is superior (whether directly or indirectly) to the estate, interest or right of any person within subsection (1A).*

6. Section 41(1) of the housing and Planning Act 2016 provides:

> *A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a landlord who has committed an offence to which this Chapter applies.*

7. Section 40 of the Housing and Planning Act 2016 provides:

> *A reference to "an offence to which this Chapter applies" is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.*

8. The Housing Act 2004 offences relevant to this application, are offences committed under s.71(1) and 95(1) only. The applicant did not allege the respondent had committed an offence under the Protection from Eviction Act 1977 s.1(2), (3) and 3A - eviction or harassment of occupiers.

The hearing

9. At the oral hearing of the application both parties attended and represented themselves. The tribunal was provided with hearing bundles by the applicant of 66 and 20 digital pages. The respondent relied on a digital bundle of 76 digital pages.

The tribunal's reasons

10. Section 72(2) & (3) of the Housing Act and s.95(2) & (3) provide that an offence is committed if the terms of a licence are breached. However, these offences do not give rise to a claim for a rent repayment order by a tenant. Rather they are breaches for which action can be taken by the Local Authority.

11. Although the applicant made reference to examples of the respondent's poor conduct during the course of her tenancy, no claim for a rent repayment was made under the provisions of the Protection from Eviction Act 19877.

12. The applicant sought to rely upon a text message from a Principal Enforcement Officer for Southwark Council, dated 09/09/25 which stated:

> *I can confirm that on Monday 18th August 2025, it was ascertained that the basement level at 28 Urlwin Street, London SE5 0NF was occupied with two occupants. I can confirm the basement level of the property is unlicensed.*
>
> *You can use this email to support your claim along with your tenancy agreement, text messages and any photo evidence.*

13. The tribunal was provided with a copy of an Additional Licence for the subject property at **26 Urlwin Street, London SE5 0NF.** This was granted by the London Borough of Southwark for the period 29 December 2020 to 28 December 2025. Although the Licence referred to being subject to the conditions set out in the schedules attached, neither the applicant or the respondent provided the tribunal with a copy of any schedules.

14. Although a complete copy of the Additional License was not provided, the tribunal, relying on its experience and expertise, finds that if any conditions to the grant of the license had been imposed, these were likely to relate to the exclusion of the use of the basement rooms for sleeping i.e. a breach of the terms of licence and an offence, but not an offence for which a rent repayment order can be claimed.

15. Although understandable, the tribunal finds it is unfortunate that the applicant relied on the email from the London Borough of Southwark as a basis for her application for a rent repayment order, when it was apparent on her own evidence that an Additional License for the property had been granted.

16. Consequently, in view of the applicant's own admission the property was licensed throughout the period for which she claimed a rent repayment order, the tenant was unable to establish that the offence of operating an unlicensed property either under s.72(1) or 95(1) had been committed.

17. In the absence of any other alleged offence for which a rent repayment can be claimed, the tribunal concluded the application could not succeed and had to be dismissed.

Name: Judge Tagliavini **Date: 6 November 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).