FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AN/HMF/2025/0917**
Property	**:**	**15 Elbe St, Hammersmith and Fulham, SW6 2QP**
Applicant	**:**	**Alessandro Corti**
Representative	**:**	**No appearance**
Respondent	**:**	**Mahmood El-Hashimi**
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	**:**	**Judge Adrian Jack, Tribunal Member Appollo Fonka FCIEH, Tribunal Member Mark Lynch**
Date of Decision	**:**	**17th November 2026**

DECISION

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1. By an application dated 16th August 2025, the applicant tenant sought a rent repayment order ("RRO") in respect of offences under section 72(1) of the Housing 2004 and section 1 of the Protection from Eviction Act 1977 against the respondent landlord in respect of the period, in the applicant's words, from November 2024 to July 2025. The onus of proving the

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offences is on the applicant and he must prove beyond reasonable doubt that the offences occurred.

2. The Tribunal gave directions on 12th December 2025, but both the applicant and respondent failed to comply with these. The Tribunal comprising Judge Mohabir and Tribunal Member Andrew Morrison heard the matter on 26th May 2026. The applicant attended remotely; the respondent did not appear. Instead of determining the matter, the Tribunal gave further directions on that occasion.

3. Once again the applicant and respondent failed to comply with the directions. The matter came before the current Tribunal on 13th November 2026. The applicant did not appear, but the respondent did appear in person. The applicant was notified of the hearing by email on 22nd June 2026. Attempts were made to contact the applicant on the morning of 13th November 2026 prior to the Hearing. We are satisfied that it was in the interests of justice to proceed in his absence under rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

4. The applicant's two complaints were (a) that the respondent was renting a room to him in an unlicensed house-in-multiple-occupation ("HMO") contrary to section 72(1) of the Housing Act 2004 and (b) that the respondent unlawfully harassed him and attempted to evict him, so as to give rise to one of the offences under section 1 of the 1977 Act.

5. The applicant adduced evidence from the local authority that there was no HMO licence. That email, dated 12th February 2026, shows that the property has never been licensed under any of the authority's licensing schemes; it does not show that a licence was required. However, he did not establish through evidence that the property in which he rented his room was in fact an HMO. Apart from references in the application to a four-bedroom house, housemates, and one female resident, whom (according to the respondent) he accused of being a prostitute, he adduced no evidence of who the occupants were, how many there were, whether they formed more than one household, or that the property constituted their only or main residence. We are not satisfied beyond reasonable doubt that the property was an HMO required to be licensed. In these circumstances the claim to a RRO under section 72(1) fails.

6. In respect of the harassment, beyond his assertion in the application he adduced no evidence of the alleged harassment. We do not find the allegation proven. As to the alleged attempted unlawful eviction under section 1(2), the applicant was still living at the property when he made his application on 16th August 2025. An attempt requires an act which is more than merely preparatory to the offence (Criminal Attempts Act 1981, section 1(1)). We are not satisfied beyond reasonable doubt that an offence under section 1(2) was committed.

7. In these circumstances the application for an RRO fails.

Costs

8. We have a discretion as to the fees payable to the Tribunal. Here the applicant has lost. It is therefore appropriate that he should bear the cost of these fees. Accordingly we make no order for costs.

DETERMINATION

(a) The application for a rent repayment order be refused.

(b) There be no order for the costs payable under rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for the reimbursement of fees.

Signed: Judge Adrian Jack **Dated: 17th November 2026**

LEGISLATION

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

> "(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."

Section 1 of the Protection from Eviction Act 1977 provides:

> "Unlawful eviction and harassment of occupier.
>
> (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—
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> (a) to give up the occupation of the premises or any part thereof; or
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> (b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;
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> does acts likely 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.

(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) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or

(b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence,

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.

(3C) In subsection (3A) above 'landlord', in relation to a residential occupier of any premises, means the person who, but for—

(a) the residential occupier's right to remain in occupation of the premises, or

(b) a restriction on the person's right to recover possession of the premises,

would be entitled to occupation of the premises and any superior landlord under whom that person derives title.]

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the prescribed sum or to imprisonment for a term not exceeding 6 months or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.

(5) Nothing in this section shall be taken to prejudice any liability or remedy to which a person guilty of an offence thereunder may be subject in civil proceedings.

(6) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) A person may not be convicted of an offence under this section in respect of any conduct if a financial penalty has been imposed under section 1A in respect of that conduct."

Section 40 of the Housing and Planning Act 2016 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."

Among the relevant offences are sections 72(1) of the 2004 Act and section 1 of the 1977 Act.

Section 41(2) provides:

"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."

Section 43 of the 2016 Act provides that the FtT may make a rent repayment order if it is satisfied beyond reasonable doubt that the offence has been committed, and that where the application is made by a tenant the amount is to be determined in accordance with section 44, which provides (in the form in force at the relevant time):

> "(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.
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> (2) The amount must relate to rent paid during the period mentioned in the table: [The table provides, for the HMO licence offence, 'a period, not exceeding 12 months, during which the landlord was committing the offence.']
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> (3) The amount that the landlord may be required to repay in respect of a period must not exceed—
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> (a) the rent paid in respect of that period, less
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> (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,
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> (b) the financial circumstances of the landlord, and
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> (c) whether the landlord has at any time been convicted of an offence to which this Chapter applies."