FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	CHI/45UE/HMF/2021/0002
Property	**:**	1 Royston Close, Crawley, West Sussex RH10 8TN
Applicants	**:**	Ioannis Kouratos Roberto Chinalia Mark Perlleshi
Representative	**:**	Flat Justice
Respondents	**:**	Subhashcandra Manibhai Patel Hemakshuben Subhashcandra Patel
Representative	**:**	Solent Legal Services
Type of Application	**:**	Application for a rent repayment order by Tenant Sections 40, 41, 42, 43 & 45 of the Housing and Planning Act 2016
Tribunal Member	**:**	Judge D R Whitney Mr S Hodges FRICS Mr L G Packer
Dates of hearing	**:**	20th May and 1st June 2021 and reconvene of panel only 8th June 2021
Date of Decision	**:**	29th June 2021

DECISION

Background

1. On 27th January 2021 the Tribunal received an application under section 41 of the Housing and Planning Act 2016 (the Act) from the Applicant tenants for a rent repayment order (RRO) against the Respondent landlords. The Applicants claimed the sum of £11,283.84. This figure was amended to £12,240 by letter from the Applicants to the Tribunal dated 17th March 2021.

2. Directions were issued on 17th February 2021. These directions included the matter being listed for a remote hearing. The matter was listed for hearing by CVP video on 20th May 2021.

3. At the first day of the hearing the Applicants attended represented by Miss Nicholls of Flat Justice. The Respondents attended and were represented by Mr Julian Wood of Solent Legal Services. At the resumed hearing on 1st June 2021, which again took place by CVP, the same parties attended together also with a Tribunal appointed interpreter Ms Clift. The Tribunal subsequently re-convened without the parties on 8th June 2021 to consider written final submissions made by both parties.

4. Within this decision references in brackets [] are to pages within the bundle produced by the Applicants.

The Law

5. The relevant law is contained within the Housing and Planning Act 2016 ("the Act"). The relevant sections are set out in Annex A.

Hearing

6. The details below set out the salient and important parts of the two days hearing of this matter. It is not a transcript of the hearing but focusses on those matters which the Tribunal has determined have been relevant in reaching its determination.

7. At the commencement of the hearing the Tribunal clerk established that all parties could hear and be heard. In undertaking this exercise it became apparent that Mr Perlleshi did not speak English.

8. Miss Nicholls explained she was not aware that her client did not speak English until just prior to the hearing. The case had been prepared by an inexperienced caseworker. She understood it had been hoped Mr Perlleshi's son would be with him to translate and in the alternative Mr Kouratos would be able to translate. She suggested that the hearing could proceed.

9. Mr Wood was content to proceed but would invite the Tribunal to strike out Mr Perlleshi's claim on the basis that he would wish to cross examine him on his statement.

10. The Tribunal was unhappy with the situation and adjourned to consider.

11. Upon resumption Miss Nicholls apologised to the Tribunal.

12. The Tribunal confirmed that it would adjourn the hearing so that an interpreter could be present. The Tribunal was satisfied it was in the interests of justice to adjourn so that a Tribunal-appointed interpreter could attend. The Tribunal was not satisfied that it was appropriate for either Mr Perlleshi's son or a joint applicant to translate given the serious nature of the subject matter of the dispute. The Tribunal is mindful of the fact that it must be satisfied beyond reasonable doubt that the Respondents have committed a criminal offence.

13. The Tribunal pointed out to Mr Wood that if he so wished he would be able to make costs applications after the conclusion of the substantive proceedings.

14. The proceedings were adjourned until 1st June 2021 so that a Greek interpreter could attend. It was further directed that the Applicants' representative would arrange for an independent Greek speaker to read to Mr Perlleshi his witness statement so that he could confirm to this person that he understood the same and it was true. This was to be done and confirmed to the Tribunal by 25th May 2021.

15. The hearing resumed on the 1st June 2021. In the meantime an Ardjan Prendi provided a short statement dated 22nd May 2021 confirming that he had read to Mr Perlleshi his witness statement and that the contents were true.

16. The interpreter Ms. Clift was in attendance to interpret for Mr Pelleshi.

17. Miss Nicholls called Mr Perlleshi. He confirmed his statement was true [97].

18. On questioning by the Tribunal he confirmed his son was with him.

19. Mr Wood began cross examining Mr Perlleshi asking him if he continued to remain at the Property as stated in his witness statement. Mr Pelleshi replied that he had not and was in Greece. He had returned to Greece on 21st November 2020.

20. At this point the Tribunal asked Miss Nicholls if she was aware Mr Perlleshi was in Greece. She was not.

21. Mr Perlleshi explained he returned to Greece to be with his wife and family as he had been unwell.

22. The Tribunal was concerned that at no point had the Tribunal been made aware that Mr Perlleshi would be appearing before it from Greece.

23. Mr Wood indicated he did not believe it was appropriate for Mr Perlleshi to give further evidence.

24. The Tribunal noted that no prior application had been made by Mr Perlleshi, and his witness statement recently read to him had suggested he remained in occupation of a room at 1 Royston Close. The Tribunal determined that a prior application should have been made. Bearing in mind all the circumstances of the case the Tribunal, exercising its case management powers, determined it would not hear further evidence from Mr Perlleshi. Whilst the Tribunal is currently sitting remotely by video due to the pandemic there is a presumption that parties could attend in person. Further in this case the witness, having been given an opportunity to look again at his statement, had wrongly led everyone to believe he remained living at the Property.

25. Miss Nicholls called Mr Kouratos. He confirmed his witness statement was true [91].

26. Mr Wood then cross examined.

27. Mr Kouratos confirmed he became aware of the Property as someone else they knew had rented a property via Gatwick and Crawley Rooms Limited ("GCR"). He explained he became aware of the name "Patel" through various letters which came to the house. Also because during the first 6 months of the tenancy the agency had told them the owner would be coming to the Property to get something they had left for storage. Later Crawley Borough Council told him that Mr Patel was the owner and that GCR leased the house from him.

28. He confirmed he had never met the Patels. GCR were his landlord and to whom he paid rent. He explained rent was paid from a joint account he had with his partner Mr Chinalia. He explained if they had any issues they would contact Shannon of GCR who was the manager, and call on a number they had been given.

29. He confirmed he was not employed by GCR. When asked about utility bills appearing to be in his and his partner's name [29 & 30] he explained that it appeared GCR had registered bills in their names and they had reported this to Action Fraud and the Police. He explained he and his partner felt very frustrated by this. He believed GCR did this to avoid paying for utilities at the Property.

30. Mr Kouratos explained the tenancy agreement was only in his name as Shannon from GCR told him that was all that was required. He explained he and Mr Chinalia lived together at the Property as they were life partners. He felt it was deliberate on the part of GCR as they knew they were behaving illegally as they did not have an HMO licence for the Property.

31. Mr Wood asked about clause 3.4 of the tenancy which stated the only occupant should be the tenant [99]. He, Mr Kouratos, said he quickly signed the agreement with the property manager and everyone knew his partner was also going to be living with him. He stated that at all times GCR accepted and treated Mr Chinalia as a tenant in the same way as him.

32. Mr Wood asked questions about the tenancy agreements within the bundle appearing to be the same [99-106 and 107-114]. Mr Kouratos was adamant there should be a tenancy covering the period from 23d May 2018.

33. Miss Nicholls indicated there was an error in the bundle they had prepared as it did not appear to have the correct tenancies. There was an adjournment so the bundle could be sent to Mr Kouratos as he did not have a copy. Mr Kouratos was warned he could speak to no one during the adjournment.

34. Upon resumption Mr Kouratos confirmed the address of the property he was at being an address in Crawley.

35. Mr Kouratos confirmed that at all times he lived at the Property there had been a minimum of 5 people living there. He was referred to the occupancy table [123]. He explained he had some contact with some of the other occupants. He was not aware he had to get evidence from them and mentioned that English was his second language.

36. At this point the Tribunal intervened to check he was happy to proceed without an interpreter. He confirmed he was and the Tribunal was

satisfied that it appeared Mr Kouratos could understand what was being asked of him and was able to provide full replies.

37. He explained that the occupant of Room 3 he only knew as Richard. The occupant of Room 5, whose name he did not know, died in his room. He stated GCR would know the name. His room was occupied until relatives collected his belongings. Mr Kouratos was adamant the table was accurate. He believed that GCR would put people in the room without written agreements, as they had done with Mr Chinalia. GCR would place people in rooms without telling other occupants. The house was very over crowded and this led to issues. He had made 3 criminal reports to the police, including that his partner had been threatened with a knife.

38. Mr Kouratos was asked about the account the rent was paid from [34 and 127]. He explained it was a joint account. He then accepted the account was only in his name. he explained that he was dyslexic and they paid sometimes from his account, sometimes his partner's, and sometimes GCR kept his partner's wages he earned from cleaning properties for GCR in lieu of his rent.

39. Mr Kouratos was referred to a tenancy for Mr Adam Levai [161-168]. He accepted it related to 2017 but Mr Levai remained living at the Property with his fiancée. GCR stopped issuing him with agreements. He explained that he believed Mr Levai may have given Flat Justice a statement but when it appeared he was out of time for seeking a rent repayment order, he wanted nothing else to do with the process. He left the evidence collecting to Flat Justice as his representative.

40. On questioning by the Tribunal he explained that he and Mr Chinalia lived at the property from 23rd November 2018 until 31st July 2020. He confirmed he had given a statement to the local authority to help them in any action they might be taking.

41. Mr Kouratos confirmed he is a care worker. He said he had trouble sleeping at the Property due to the large numbers of people living there. He raised this with GCR and had contacted Crawley District Council.

42. Mr Kouratos confirmed he had received no payments from GCR.

43. The Tribunal adjourned, but before doing so, Miss Nicholls raised again the question of Mr Perlleshi's evidence. The Tribunal re-iterated that in its determination if Mr Perlleshi was to give evidence from outside the jurisdiction, given the history and circumstances of the case, a prior application should have been made, given there is a presumption that witnesses could attend in person a hearing. No application had been

made or indication given to the Tribunal. In its judgment it was correct to exercise its case management powers not to hear Mr Pelleshi's evidence.

44. The Tribunal adjourned for lunch.

45. After lunch Miss Nicholls called Mr Chinalia. It appeared Mr Chinalia was in a moving vehicle. He confirmed this was the case although a colleague was driving. He explained he would not be at his destination for another 40 minutes.

46. The Tribunal was not prepared to hear his evidence in this fashion. The vehicle pulled over and the Tribunal did hear his evidence whilst the vehicle was stationary. It was believed a work colleague was with Mr Chinalia.

47. He confirmed his statement was true [94 & 95].

48. Mr Wood cross examined.

49. Mr Chinalia explained he was not employed by GCR he just cleaned some properties for them as though he was self employed. He no longer cleans for them. He got paid for the work he did although on occasions Caroline Hunt of GCR deducted his wages from his rent. His instructions came via an employee Shannon. Caroline Hunt was her boss.

50. Mr Chinalia stated that GCR refused to include his name on the tenancy. The only evidence he has is the texts, WhatsApps and emails he has. At the start of the tenancy they took a copy of his passport and national insurance number.

51. He believes that his partner complained to the Council after about one year. They remained living there for about a further 6 months. In respect of the WhatsApp messages [46-51] he stated he sent the messages because he lived at 1 Royston Close. Mr Chinalia said he would not make complaints about a property he did not live at. When asked about the message on 17th February 2019 at 18.47 [47] referring to 4 people Mr Chinalia stated that some people travel, some were at work and not all there all the time. At the time of the message he was only aware of 4 people being physically present. He would message Shannon as she was the house manager and the person he dealt with.

52. In respect of the bills in the name of Roberto Morais [26 & 27] Mr Chinalia stated he did not know how GCR got this name as it is his single name.

53. The Tribunal had no questions.

54. Miss Nicholls again questioned the refusal to hear from Mr Perlleshi. The Tribunal reminded her it had already ruled on this point.

55. Mr Wood presented his case. He called Mr Patel who confirmed his statement was true and accurate [60-63].

56. Miss Nicholls cross examined.

57. This concluded the case for the Applicants.

58. Mr Wood called Mr Patel.

59. Mr Patel confirmed the contents of his statement were true and accurate [60-63].

60. Miss Nicholls cross examined Mr Patel.

61. He confirmed he was a joint owner with his wife. He had entered into a tenancy with GCR using what he believed was their standard contract [66]. He stated he was told they would guarantee the rent and he would not need to be involved with the property. He confirmed he never knew who was in the Property.

62. He let it a 4 bedroom house and as a family home, not for any illegal use.

63. He confirmed that the other of his properties referred to in paragraph 21 of his statement [63] was let to students. He did have an HMO licence for this property. He stated he was not an experienced landlord but knew the importance of having an HMO licence.

64. GCR supposedly never mentioned the occupancy. He stated he appointed them as they were based in Crawley just around the corner from where he worked. He stated he made some enquiries and believed Andrew Hunt to be reputable agents and the guaranteed rent was with GCR which was

an associated company. They told him about different deals they could offer to him. He thought he would get a guaranteed rent and they would do everything. Also being local they would be easy to contact.

65. At this point the Tribunal adjourned for a short break for all parties including the interpreter.

66. Upon resumption he was asked questions by the Tribunal.

67. Mr Patel described the property as a 4 bedroom house with all bedrooms on the 1st floor. The ground floor had a dining area, living room, kitchen, utility room, study and garage.

68. He confirmed he signed the guaranteed rent terms and conditions [69 & 70] and had authority from his wife.

69. He confirmed GCR had paid all the rent and were continuing to do so. He had not told them about these proceedings. At the time when he let to them, he had been told by other agents that he would achieve in the region of £1,600-1,700 if he offered the property to a family.

70. Mr Patel confirmed he had never inspected the property during the tenancy to GCR.

71. Upon questioning he said when he said a "family" he knew it might be two families and he just gave the property to GCR. He just assumed it would be a family let. He had no real preference; he passed the property to GCR and got his rent and did not have to be involved in the letting. He was not concerned really who was in occupation.

72. Mr Wood re-examined and referred Mr Patel to clause 7.1 of the agreement [66] which stated "the Tenant will not use the Premises for any illegal or immoral or improper use" and also clause 8 of the terms and conditions of the guaranteed rent [69] which state "We will be allowed to sublet the premises in a "proper" manner". Mr Patel stated he thought this meant they would let within the law of renting.

73. Mr Patel confirmed that the last contact with Crawley Council was the email dated 1st December 2020 [74] from his son to Crawley Council in reply to Crawley Council's email dated 23rd September 2020.

74. Mr Patel confirmed he understood 3 or 4 people were currently living in the house.

75. Mrs Patel confirmed her statement was true and accurate [64].

76. She was cross examined by Miss Nicholls.

77. She confirmed she was the joint owner. She stated that her husband handles all lettings and she relies on the information he gives to her. She stated she trusts him and she effectively gave up control to her husband.

78. She stated she did not know why they had not contacted GCR, she was not dealing with maters.

79. This concluded the evidence. Given the hour the Tribunal indicated it would require both parties to provide written final submissions which it would then consider in making its determination.

80. The Tribunal made clear Mr Perlleshi's case was not struck out. Simply he had not been allowed to give evidence for the case management reasons given. The Tribunal indicated it would like both parties to address why they had not made contact with GCR or obtained anything further from the local authority. For the Applicants, the Tribunal invited submissions as to why no statements were provided from other occupants at the property. As to the Respondents, and if the Tribunal were minded to determine that an offence has been committed, the Tribunal invited them to comment on why any reduction should be made as to the amount of any rent repayment order, including providing information on their financial circumstances, in support of the deduction they sought under S44(4) of Act

81. The Tribunal confirmed, upon the question of Mr Wood, that either party would of course be entitled to make any Rule 13 costs application after the issuing of the decision.

Decision

82. In making this decision we have had regard to the bundle, skeleton arguments, binder of authorities and final submissions provided by both parties.

83. We must comment that we do have real concerns as to the way matters were conducted. Earlier in the proceedings prior to the hearing, Mr and

Mrs Patel had raised possibly requiring an interpreter and having their son provide this role. The Tribunal had explained it would provide an interpreter if required with such correspondence copied to the representative for the Applicants. Mr and Mrs Patel determined they would be able to proceed without an interpreter. At no point prior to the hearing did the Applicants or their representative make any application for any reasonable adjustment.

84. This Tribunal does consider it incumbent upon professional representatives to ensure that if a party will require an interpreter they notify the Tribunal at the earliest opportunity. In these proceedings, given the findings that we are required to make, it will never be satisfactory for a related party to translate.

85. We also comment that people appearing, particularly as witnesses, should be in a place where the Tribunal is satisfied that they cannot be overheard or there are other people who may affect the giving of evidence. A party being in a moving vehicle is unacceptable. Effectively a person appearing should treat their attendance as though they were appearing in person, physically at a Tribunal venue.

86. The Respondents suggests the claim against Mr Perlleshi should be struck out. Essentially the argument is that Mr Perlleshi's witness statement, even when read to him in Greek and confirmed as true contained a matter which was false. It suggested that he was still living in the Property in Crawley when actually he had returned to Greece.

87. We are not minded to strike out the claim. Mr Perlleshi is entitled to pursue his claim and he is not obligated to give evidence. His evidence in his statement principally dealt with the payments he made and not as to whether or not an offence was committed. The evidence of the commission of the offence came primarily from the documents and Mr Kouratis. The Tribunal in determining the claim takes note that the Respondents could not cross examine Mr Perlleshi and if any doubt we will determine any issues in favour of the Respondent.

88. Turning to the substance of the case, we consider firstly whether we are satisfied that an offence has been committed and for what periods.

89. There was little Mr and Mrs Patel could really say about how the Property was used. Mr Patel stated that effectively it was not his concern, provided he received his guaranteed rent, and his wife relied upon his judgment.

90. Mr Wood cross examined Mr Kouratis and Mr Chinalia. We are satisfied that they gave credible evidence. Mr Patel in his description of the house

identified that plainly the Property was physically capable of being used as a House in Multiple Occupation for 5 or more persons. His description tallied with the evidence given by the Applicants.

91. Turning to the occupancy table provided by the Applicants [123] we are satisfied that it presents an accurate picture, and that Mr Kouratis and Mr Chinalia were in occupation of their room (known as Room 1) for the period 23 November 2018 until 31 July 2020. We are satisfied that GCR knew that both gentlemen were living in the room and that they were joint tenants notwithstanding the fact Mr Chinalia was not named on the tenancy agreement.

92. We have considered the representations, particularly as to why statements from other occupants were not included. We accept that in an HMO of this type occupants of rooms would not necessarily know the other occupants. We accept the representations made that when other occupants who had been contacted were advised they could not make a rent repayment order, they no longer wished to be involved in these proceedings.

93. We take account of all the evidence given. We are mindful that the terms and conditions which Mr and Mrs Patel agreed with Gatwick and Crawley Rooms Limited allowed them to sublet without restriction. Mr Patel had established that a letting to a single family would achieve in the region of £1,600-1,700 per calendar month, with all the inherent risks as to voids and the like. Under the terms of the agreement, [66-67 and 69-70] GCR were prepared to guarantee a starting rent of £1,650 per calendar month; to guarantee annual increases of 3% per annum thereafter; to manage the Property; to keep the fixtures and fittings in good repair and condition; and to carry out all repairs up to a maximum of £500 per repair. These terms add materially to the cost for GCR in addition to the guaranteed starting rent of £1,650. Given the evidence provided by Mr Patel on the prospective rent achievable for a conventional residential letting, it is unlikely that GCR could have borne its costs for the Property and made a business return other than by renting it out as an HMO. We are mindful also of the name of the company.

94. We note that the Respondents suggest they had not contacted GCR because the Council had asked them not to. We are not satisfied with this explanation. No contact has been had from the Council since September 2020. In December 2020 the Respondents' son told the Council that they would be contacting GCR with a view to obtaining vacant possession of the house. It is plain from that email that the Respondents remained concerned that they would continue to receive their rent and in fact they have continued to be paid rent. We find that the Respondents did not contact GCR as by this point they knew that GCR had been letting the

property on a room by room basis and it was likely the Property was being used as an HMO.

95. All of these matters, and the oral evidence of the two Applicants, lead us to conclude that the Property was being operated as a House in Multiple Occupation. It does not seem to be particularly challenged by the Respondents that the Property did not have any licence. We have regard principally to the documentary evidence within the bundle, including the letter from Crawley Borough Council to the Respondents of 26th June 2020 [71], which said *'we are investigating the property and have gathered robust evidence that a licensing offence has taken place under the Housing Act 2004. In essence this means any property housing five people or more in two or more households is a House in Multiple Occupation (HMO) and requires licensing by the local authority. Moreover there are standards a property requires in order to be licensed and this property does not currently meet a number of these.'* Whilst the Council's letter dates from after the period in issue, the Tribunal regards it as unlikely that the matters raised in the letter did not apply three months earlier. Similarly, we note the email to the Applicants' representative from Crawley Borough Council dated 4 September 2020 [122]. We are satisfied that at all material times the Property did not have an HMO Licence and so prima facie an offence pursuant to Section 72 of the Housing Act 2004 occurred.

96. Taking account of the various cases, notably Rakusen v. Jepsen [2020] UKUT 298 (LC) we are satisfied that as the owner of the freehold interest, notwithstanding the contract letting the Property to GCR, the Respondents were in control for the purpose of committing an offence of not having an HMO Licence. Whether the local authority chooses to prosecute or take any action against the Respondents (and it appears at this stage they do not intend to do so) is not relevant to the decision we must make.

97. We have considered whether or not the Respondents have any reasonable excuse.

98. We take account of the fact that when the agreement with GCR was first entered into in 2017 there was no requirement for the Property to have a licence. The requirement for this property being a two storey house to have a licence only commenced in October 2018. We note that Mr and Mrs Patel in their evidence tell us they have another property which upon the change in the requirements for licensing required a license. They worked with the agents for that property to be granted a licence.

99. In respect of this Property it seems Mr Patel on behalf of himself and his wife asked no questions. We find that he deliberately or otherwise shut

his mind to any issues. In effect, provided the rent was being paid, the Respondents did nothing.

100. Mr and Mrs Patel within their initial claim challenged whether or not they had control. In particular they suggested that the rent they received was not 2/3rd of the rack rent. In the submissions made this point was conceded given that Mr Patel in his evidence accepted that he was advised by other agents the rack rent for the Property at the time of the letting was similar to that achieved with GCR.

101. We find on the evidence that the Respondents were receiving a rack rent for the Property and that the Respondents were in control of the Property within the meaning of the legislation. We find that the Respondents had no reasonable excuse.

102. We have considered the cases to which we are referred and in particular Opara v. Olasemo [2020] UKUT 96 (LC). We have taken account of all evidence oral and documentary and have made our findings on the basis of the same.

103. We are satisfied beyond reasonable doubt that the Respondents were committing an offence under section 72 of the Housing Act 2004 by letting a property without an HMO Licence and do not have a reasonable excuse for the commission of the offence.

104. We have considered whether or not we ought to make a rent repayment order. Again having regard to the authorities taken as a whole we are satisfied that we should exercise our discretion to make a rent repayment order. The Respondents in their submissions suggest they are not rogue landlords, and we should therefore not make an Order. There is no such connection. It is sufficient that the Property has been used as an unlicensed HMO for a period of nearly two years and we are satisfied that we should exercise our discretion to make a rent repayment order.

105. We turn now to the amounts.

106. The Respondents declined in their closing submissions to provide evidence as to their financial circumstances and said that they no longer sought to rely on this for seeking a deduction.

107. Both parties refer to various decisions notably Vadmalayan v. Stewart [2020] UKUT 0183 (LC) and Ficcara v. James [2021] UKUT 0038 (LC).

108. It appears to be accepted by both parties that utilities and cleaning were supplied by GCR. Both parties raise issues as to the others' conduct. We are not satisfied that the conduct of any party has an effect on the amount of any RRO. By way of example the Applicants suggest that the failure by the Respondents to provide them with a Gas Safe Certificate should go to their conduct. It was for GCR to provide this to the Applicants as their direct landlord. Whether the Respondents were obligated to provide this to GCR is a matter between those two parties. Both parties appear to accept that GCR's conduct was poor but they are not a party to this application.

109. We accept that we do not have any figures as to utilities. Again given the arrangements of the letting this is unsurprising. It would be GCR who would have such information. We accept that the starting point for any award is one of 100% of rent paid for a maximum of a 12 month period. In the Ficcarra case Martin Rodger QC endorses that the Tribunal retains a discretion.

110. We recognise that when the Respondents first let the house to GCR no licence was required. Plainly they ought to have taken steps to investigate the subsequent position relating to the licence, given they were aware of the need for such licences, as demonstrated by their other property. We do not accept the Respondents' submission that in effect we should reduce the maximum award by 80%. This is too much. Parliament has been clear that the purpose is to punish landlords' failure to licence HMOs and act as a deterrent.

111. As we have indicated above the Respondent's could have sought information from GCR. We are satisfied they choose not to.

112. The Applicants have explained they did not seek to include GCR as a Respondent given they are not obliged to and GCR appears to have little financial standing. We are satisfied the Applicants are entitled to proceed in this manner and no criticism may be levelled at them for adopting this approach.

113. In making this decision we do so having regard to the fact the Property was let inclusive of utility costs. Further we have looked at all the circumstances and in our judgment a deduction is justified. Whilst we do not have actual figures for utilities we use our knowledge and apply a percentage discount from the maximum.

114. We take account of all the evidence and determine that in our judgment we should exercise our discretion and reduce the maximum amount of any award by 30%.

115. We turn now to the Applicants. We are satisfied that Mr Kourashi and Mr Chinalia were joint tenants. We accept that they made rental payments as set out in their evidence and statements including by way of Mr Chinalia providing cleaning services to GCR whereby his wages were off set against rental payments he owed to them.

116. Mr Kourashi and Mr Chinalia seek reimbursement of rent paid for the period 23rd November 2018 to 22nd November 2019. The sums claimed are £8970 being payments of £700 for 6 months and £795 for 6 months, the difference being due to a rent increase which was confirmed in evidence. We are satisfied that such sums were paid or caused to be paid.

117. We determine that Mr Kourashi and Mr Chinalia are entitled on a joint basis to a Rent Repayment Order in the sum of £6,279 payable within 28 days of the date this decision is sent to the parties.

118. Turning to Mr Perlleshi's claim it is for £3,450 being payments for 6 months at £575 per month from 19th October 2019 to 19th March 2020.

119. The Respondents raise various matters. In particular that the receipts relied upon at [156 and 158] appear to be the same. We are satisfied that these appear to be duplicates of the same document and that therefore the benefit of the doubt should be given to the Respondent and only one payment of £575 should be applied.

120. Further the Respondents suggest even relying upon the table that for certain parts of the period there were not 5 or more occupants. We do not accept that. For the whole of the period claimed if you include the three applicants on the table produced [123 & 124] there were not less than 5 occupants of the Property in our judgment.

121. We determine the evidence produced shows rent paid of £2,875. We find that the Respondent shall pay to Mr Perlleshi the sum of £2,012.50 within 28 days of the date that this decision is sent to the parties.

Conclusion

122. We are satisfied beyond reasonable doubt that the Respondents were in control of an HMO without a licence for the period from November 2018 until 31st July 2020 without any reasonable excuse. We are satisfied that offence pursuant to Section 72 of the Housing Act 2004 has been committed by the Respondents.

123. An application was made on 27th January 2021. We are satisfied we should exercise our discretion to make rent repayment orders in favour of the Applicants.

124. We determine Mr Kouratos and Mr Chinalia are jointly entitled to a Rent Repayment Order in their favour against the Respondent in the sum of £6279 payable within 28 days.

125. We determine Mr Perlleshi is entitled to a rent repayment order against the Respondents in the sum of £2,012.50 payable within 28 days.

126. We exercise our discretion and determine that the Respondents shall reimburse the Applicants their Tribunal fees in the sum of £300 within 28 days of the decision being sent to the parties.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.