



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

**Case reference** : **LON/00AJ/HMF/2021/0136 & 0155**

**HMCTS code  
(paper, video,  
audio)** : **V: CVPREMOTE**

**Property** : **4B The Vale, London W3 7SB**

**Applicant** : **Jacob Benjamin Asher Dubiel (1)  
Tamara Cowling (2)**

**Representative** : **In person**

**Respondent** : **Roomerang Limited**

**Representative** : **None**

**Type of application** : **Application for a Rent Repayment Order  
by a tenant (Ss 40, 41, 43 and 44 of the  
Housing and Planning Act 2016)**

**Tribunal  
member(s)** : **Judge Dutton  
Mr P S Roberts DipArch RIBA**

**Venue** : **By remote video hearing on 18  
November 2021**

**Date of decision** : **22 November 2021**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has been not objected to by the parties. The form of remote hearing was V: CVPEREMOTE. A face-to-face hearing was not held because it was not practicable and no-one requested the same and all issues could be determined in a remote hearing. The documents that the Tribunal were referred to are in a well prepared bundle of 291 pages, the contents of which have been noted..

## DECISION

- 1. The tribunal determines that the Respondent, Roomerang Limited has committed the offence of being in control or managing a property which was required to be licensed as an HMO and was not so licensed (S72(1) of the Housing Act 2004 and s40(3) of the Housing and Planning Act 2016).**
- 2. The amount ordered to be paid by the Respondent as a Rent Repayment Order is to Mr Dubiel £4,760 and to Ms Cowling £3,467.74. Both sums are to be paid within 28 days of the date the decision is sent to the Respondent.**
- 3. In addition to the above the Respondent is ordered to reimburse both Applicants the sum of £300 each, representing the application fee of £100 and the hearing fee of £200, again such reimbursement should be made within 28 days of the date this decision is sent to the Respondent.**

## **BACKGROUND**

1. By applications dated 9 May 2021 and 28 June 2021 the Applicants both applied to the tribunal for a Rent Repayment Order (RRO) in relation to their respective occupancy of 4B The Vale, London W3 7SB (the Property).
2. Mr Dubiel had taken occupancy under the terms of an agreement dated 19 August 2020 requiring the sum of £700 to be paid for rent on 29<sup>th</sup> of each month. Mr Dubiel took occupancy on 29 August 2020 and left the Property on 28 March 2021.
3. Ms Cowling had taken occupancy under the terms of a tenancy agreement dated 22 January 2021, effective from 28 January 2021 with an initial payment of £67.74 representing the rental payment to 31 January 2021 and thereafter at the rate of £700 per month for it is said, a six-month period terminating at the end of June 2021, erroneously shown as 31 June in the agreement. In fact, this is 5 months and a few days. Copies of both agreements were included in the bundle before us.
4. Mr Dubiel seeks to recover rental for the period of his occupancy, which is 7 months. He told us that he had paid a deposit of £700 but that this had not been protected. He had not had the deposit refunded to him. The sum he claims in these proceedings is therefore £4,900.
5. Ms Cowling seeks to recover rental for her period of occupancy, which is until the tenancy agreement expired on 30 June 2021. The total sum she seeks is £3,567.74, being 5 months rent at £700 and the few days in January. She told us at the hearing, that like Mr Dubiel the deposit she had paid was not protected and had not been refunded, instead she had utilised the deposit to represent her last month's rental payment.

6. The tenancy agreements both included the costs of the utilities, although in Ms Cowling's case this appeared to be limited to £400.
7. The bundle provided to us included the applications, directions issued by the tribunal providing for a hearing, documents supporting the alleged offence, an occupancy table, the agreements, land registry details, evidence of rent paid with calculations and a Rent Guide. We were provided with witness statements of the Applicants and Mr Dickins a former tenant at the Property. We carefully noted the contents of same. There were also additional papers concerning the status of the Respondent as a 'Professional Landlord', health and safety issues, rubbish, the deposit and what appeared to be Whats App chats between Mr Dubiel and Mr Harris for the Respondent.
8. Directions were issued separately in July and amended, providing for a hearing on 6 October 2021. That hearing did not take place. Instead, there were attempts made to obtain the involvement of the Respondent, which were unsuccessful. This eventually resulted in the tribunal making a Debarring Order on 19 October 2021, still giving the Respondent the chance to lift the bar provided that such application was made no later than 7 November 2021. No such application was made and thus the Respondent was debarred from taking further part in the proceedings.

## **HEARING**

9. Both Mr Dubiel and Ms Cowling attended the hearing. They relied on their witness statements and the contents of the bundle to support their cases. We were told that the Property was a 5 bedroomed flat on the top two floors of 4 The Vale, there being commercial premises at ground floor level and a flat (4A) on the floor above. Apparently 4A and 4B shared some of the utilities.
10. Ms Cowling drew our attention to the documents which confirmed that the Property was within a selective licensing area, which in fact covered the whole of the London Borough of Ealing. The selective licensing had come into force on 1 January 2017 and ceases to apply on 1 January 2022 and applied to all HMO's.
11. A table confirmed that there had at any one time been 5 rooms rented, certainly until March 2021, and then in April it would seem only two rooms, with 3 people was rented rising to four people in the three rooms for May and June 2021.
12. On the question of utilities, we were told that gas, electric and internet were included. However, on a number of occasions the landlord attended and turned off the heating and neither applicant made much use of the cooking facilities. They volunteered an allowance of £20 per month each to be off set against the monthly rent.

13. Before the hearing we had arranged for the case report of Williams v Parmar [2021] UKUT 0244 (LC) to be sent to the Applicants. Their response was that the Respondent was a 'Professional Landlord' as witnessed by the research carried out by Ms Cowling which at page 186 of the bundle showed some 8 properties said to be let by the Respondent.
14. It was not known whether the Respondent had been convicted of any offences which would be considered under the provisions of s44(4)(c) or 46 of the 2016 Act. We were told that there had been no attempt to apply for a licence by the Respondent. It appears that the freeholder, Tajo Limited, who has owned the freehold since 2012, has applied for and received a licence in respect of both flats at the Property. We had no further information on this as the Respondent has taken no part in these proceedings.
15. Further in respect of the conduct of the Respondent it was said that in addition to not obtaining a licence they did not supply documentation concerning the gas and electric supply, failed to secure the Applicants' deposits and made unplanned attendances at the Property, amounting to a form of harassment.

## **FINDINGS**

16. We are satisfied, beyond reasonable doubt, from the evidence given to us at the hearing and from the documentation provided in advance, that the Respondent has committed an offence under s72(1) of the Housing Act, which enables the Applicants to claim an RRO under the provisions of the Housing and Planning Act 2016.
17. The only question we need to consider is the quantum of such claim. We have borne in mind the recent Upper Tribunal authorities. The maximum amount that we can order be repaid is the rent paid by the applicant in any case, up to a maximum of 12 months during which the landlord was committing the offence. There is no doubt that during the period for which the Applicants occupied the Property there was no HMO licence. The applications have been brought within 12 months of the date of the offence.
18. It is our finding that the starting point is the rent paid during the period less any universal credit, which does not apply in this case. Against this we must consider the conduct of the parties, the landlord's financial circumstances and whether the landlord has been at any time convicted of an offence to which the Chapter of the 2016 Act applies. Conviction for an offence to which this application applies would also result in the maximum award being made.
19. As a result of the Respondent's complete failure to engage with the tribunal or the Applicants we have no information on its financial circumstances. We do not know whether there have been any convictions which we should take into account. There is nothing argued

for the Landlord that conduct should be reflected in a lower award. Against that we had the complaints made by the Applicants.

20. The Applicants have conceded that we should make an allowance of £20 per month for utilities. In the absence of any evidence to the contrary we are prepared to accept that amount. Accordingly, for Mr Dubiel we award the sum claimed of £4,900 less £140 for the utilities, giving a RRO of £4,760. For Ms Cowling the sum claimed was £3,567.74 from which should be deducted £100 representing the 5 complete months from February to June 2021 this giving the total of £3,467.74 as the RRO in this case.
21. In addition, we order that the Respondent should reimburse the Applicants the fees of £300 they each paid to the tribunal. The payment of the sums awarded should be made within 28 days of the date that this decision is sent to the Respondent.

Judge Dutton

22 November 2021

### **ANNEX – RIGHTS OF APPEAL**

1. 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 at the Regional Office which has been dealing with the case.
2. 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.
3. If the application is not made within the 28-day time limit, such application must include a request to 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.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie 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.

Extract from the 2016 Act

44 Amount of order: tenants

(1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a tenant, the amount is to be determined in accordance with this section.

(2) The amount must relate to rent paid during the period mentioned in the table.

<i>If the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to rent paid by the tenant in respect of</i>
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

(3)The amount that the landlord may be required to repay in respect of a period must not exceed—

(a)the rent 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.

(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.