



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

Case reference : **LON/00BD/HSC/2020/0001**
HMCTS code : **P:PAPERREMOTE**
(PAPER)

Property : **Flat 1, 420a Upper Richmond Road
West, East Sheen, London SW14 7JX**

Applicant : **London Borough of Richmond**

Representative : **Mr N Hancock**

Respondent : **East Sheen Estates Ltd**

Representative : **N/A**

Type of application : **Rent repayment order**

Tribunal HMCTS : **Judge Tagliavini**
embers : **Mrs L Crane**

Venue & date of : **10 Alfred Place, London WC1E 7LR**
hearing. : **(PAPERREMOTE)**
8 March 2021

Date of decision : **8 March 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing which has been consented to by the parties. The form of remote hearing was **P: PAPERREMOTE**. A face-to-face hearing was not held because it was not practicable and all issues could be determined on the papers. The documents that the tribunal was referred to are in an applicants' bundle pages 1 to 132 the contents of which, the tribunal has noted. The order made is described at the end of these reasons.

Summary of decisions of the first-tier residential property tribunal

- (1) The tribunal allows the application for a Rent Repayment Order and directs the respondent pay to the applicant the sum of £6857.18 within 28 days of the date of this decision, for the offence of failing to comply with an Improvement Notice dated 25 March 2019 that was committed during the period 22 May 2019 to 9 December 2019.
-

The application

1. This is an application dated 2 April 2020 seeking a Rent Repayment Order (RRO) by a local housing authority due the respondent's commission of an offence under section 30 of the Housing Act 2004 (failure to comply with an improvement notice). The respondent is the freehold owner of the property at 420a Upper Richmond Road West, East Sheen, London SW14 7JX, which is a converted building comprising a total of 4 self-contained flats of which the subject property is flat 1 ('the Flat').

Preliminary matters

2. The respondent was debarred from defending this application due to the complete absence of participation as required by the tribunal's directions dated 26 November 2020. Although the hearing of this application was due to be held by way of a video hearing, due to technology issues experienced by the applicant's representatives the tribunal with Mr Hancock's agreement determined this matter on the papers only.

The applicant's case

3. The applicant relied on a Statement of Reason which was supported by the signed witness statement of Mr Hancock (Environmental Health Practitioner) dated 7 January 2021. The applicant stated that a statutory improvement notice ('the Notice') dated 25 March 2019 had been served on the respondent due to the Category 1 and Category 2 defects under the Housing Act 2004 Housing Health and Safety Rating System that were found in the subject Flat. Schedule 2 of the Notice required works of repair to be carried on or before 7 May 2019 and to be completed by 21 May 2019.

4. On an inspection of the subject Flat on 18 June 2019 by Mr N Hancock observed that none of the works as specified in Schedule 2 of the Notice had been carried out. Despite the imposition of a Financial Penalty on 12 November 2019 in the sum of £6,000, the respondent continued to fail to comply with the Notice and on 9 December 2019, the applicant revoked the Notice and a Prohibition order under section 20 and 21 of the Housing Act 2004 was served on the respondent dated 10 December 2019.
5. In his witness statement Mr Hancock stated that he had received and now exhibited, confirmation of the rent paid under the applicant's Housing Benefit scheme the sum of £12000.04 for the 12 month period in 2019 equalling the sum of £923.08 every 4 week period. Mr Hancock stated that the 3 other flats in the building would attract a similar rate of rent and also produced copies of filed company accounts showing capital and reserves in 2019 in the region of £172k Mr Hancock also informed the tribunal that at no time had the respondent replied to the Notices served or engaged with the applicant local authority about this matter.
6. A Notice of Intended Proceedings to Apply for a Rent Repayment Order in the sum of £12,000.04 and dated 24 February 2020 was served on the respondent by the applicant

The respondent's case

7. As the respondent failed to engage with the tribunal in respect of this application and no correspondence had been received in reply to the application, the respondent was debarred from participating in the proceedings due to a failure to comply with the tribunal's directions. Therefore, no evidence was received from the respondent who did not appear and was not represented at the scheduled video hearing held on 8 March 2021 and subsequently converted to a determination on the papers.

The tribunal's decision and reasons

8. The tribunal is satisfied so that it is sure that the respondent has committed an offence under section 30 of the Housing Act 2004 and failed to comply with the applicant's Improvement Notice dated 25 March 2019. The tribunal is satisfied that the applicant has served an appropriate Notice of Intention to seek a RRO. Further, the tribunal is also satisfied that the respondent has failed to engage in these proceedings in the tribunal which has led to being debarred from taking part in these proceedings.
9. The tribunal finds that the offence under section 30 of the Housing Act 2004 was committed between 22 May 2019 (being the day after the works in Schedule 2 of the Notice were due to have been completed) and 9 December 2019 (the date of the revocation of the Notice. This amounts to 29 weeks and 5 days and a total of £6,856,71 paid to the respondent by way of Housing Benefit for the rental of the subject Flat.

10. In light of the long history of non-co-operation by the respondent and the substantial capital reserves and assets held by the respondent, the tribunal finds that there is no reason to reduce the sum of the Rent Repayment Order.
11. The tribunal allows the application for a Rent Repayment Order and directs the respondent pay to the applicant the sum of £6857.18 within 28 days of the date of this decision, for the offence of failing to comply with an Improvement Notice dated 25 March 2019 that was committed during the period 22 May 2019 to 9 December 2019.

Name: Judge Tagliavini

Date: 8 March 2021

Rights of appeal from the decision of the tribunal

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).