



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

Case Reference : **Lon/00AW/HMK/2018/0033**

Property : **3 Cremorne Road, Chelsea SW10
0NA**

Applicant : **Mr. Alexandru-Iulian Iurea and
Mr. Narcis Dobos**

Representative : **In person**

Respondent : **Mrs Radhidevi Subramaniam**

Representative : **N/A**

Types of Application : **Rent repayment order**

Tribunal Members : **Judge Tagliavini
Mr. Peter Robert DipArch RIBA**

**Date and venue of
Hearing** : **4 October 2018
10 Alfred Place, London WC1E 7LR**

Date of Decision : **12 October 2018**

DECISION

The Tribunal's decision:

- I. The Respondent is to repay to the Applicants the sum of £2,300 in respect of rent paid for the period 23 August 2017 to 23 November 2017.**
 - II. The Respondent is to reimburse to the Applicants the sum of £300 (application and hearing costs).**
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1. This is an application dated 12 June 2017 made under the provisions of the Housing and Planning Act 2016 in which, the Applicants seek a rent repayment order in respect of their tenancy of a first-floor front room at the subject property, 3 Cremorne Road, Chelsea SW10 0NA (a three-storey house divided into 6 rooms and shared amenities). The Applicants seek the sum of £2,300 for the period 23/08/2017 to 23/11/2017.
2. Although directions dated 30 July 2018 refer to an application made under the provisions of the Housing Act 2004, this is the incorrect provision. However, the tribunal notes that applications under both Acts have in fact been made.

Background

3. On 23 August 2017 the Applicants entered in a tenancy agreement (purporting to be a holiday let), for a term of three months for the first-floor front room at the subject property at a rent of £950 per month. On or about the 23/11/17 the Applicants vacated the premises having paid an initial security deposit of £400 and two-month's rent in the sum of £1900. On 06/06/2018 the Respondent was convicted after having pleaded 'guilty' of an offence committed on 15/11/2017 pursuant to section 72(1) and (6) of the Housing Act 2004 (having control of an unlicensed HMO requiring a licence).

The hearing

4. At the hearing of this application the Applicants appeared in person. The Respondent did not attend and was not represented. However, the tribunal received bundles of documents from both parties on which they sought to rely. Before the hearing, the tribunal satisfied itself that the Respondent was notified of the hearing date and venue and noted a letter dated 5 September 2018 sent to the Respondent at her correct, updated address informing her of this hearing. The tribunal therefore determined it was appropriate to proceed with the application.

The Applicant's case

5. At the beginning of the hearing the Applicants provided the tribunal with a further statement in Response to the Respondent's documents.

In the absence of any objection, the tribunal considered it appropriate to admit this late served evidence relied upon by the Applicants.

6. The Applicants told the tribunal that throughout their occupation of the property the Respondent had continually harassed them and interfered with their enjoyment of their tenancy, by entering their room without notice or allowing its agents to do so; by continually calling or attending at their place of work to complain of smells in their room and uncleanliness; by asserting they were not permitted to use the (shared) kitchen and in around end October 2017, demanded they should leave the premises within the next three or four days as the house was shortly to be sold. The Applicants enquired about the return of their security deposit but as this was refused, the parties agreed that this would be used for the last (third) month's rent. On vacating the premises, items left temporarily behind by the Applicants for collection the next day were 'lost' and not returned to them. The Applicants referred the tribunal to copies of bank statements detailing the sums paid to the Respondent in respect of this tenancy.
7. The Applicants denied having loud parties and asserted that as they worked long hours six, sometimes seven days a week they used the property simply as a place to sleep, wash and eat. Throughout the period of their tenancy the Respondent had never stayed at the property and only after the Applicants had contacted the relevant Local Authority (RBKC), did she start to move in some personal belongings. Further, some of the photographs relied upon by the Respondent purporting to show damage or untidiness did not in fact depict their room but related the ground floor front room. The Applicants also provided the tribunal with a number of photographs taken from a security camera they had installed and dated variously August and September 2017, showing persons entering the Applicants' room uninvited and while they were not present.

The Respondent's case

8. The Respondent relied on her written statement (undated) together with 'testimonials' from previous lodgers. The Respondent stated she had sold the subject property in April 2018 and exhibited Estate Agent details of the property for a sale price of £1,850,000. The Respondent stated the subject property had been her family home but had more recently let out rooms on short-term lets. The Respondent asserted that the Applicants had loud parties in the house and caused a threat to health and safety matters causing damage to the cooker hood, wardrobe and upstairs shower room. The Respondent asserted that she was unable to stay at her property because the Applicants had made it unbearable and had not allowed her to enter their room so the agent could conduct viewings as they had placed locks on the door.

The tribunal's decision and reasons

9. The tribunal is satisfied that as the offence under section 72(1) of the Housing Act 2004 occurred entirely after 6 April 2017 and ended no later than 5 April 2018, the provisions of the Housing and Planning Act 2016 apply as the Applicants' tenancy lasted only from 23/08/17 to 23/11/2017. The tribunal is satisfied that the Respondent was convicted of an offence occurring on 15/11/2017 under section 72(1) and at a time when the Applicants were tenants at the subject property. The tribunal also finds that the Respondent did not subsequently apply for a HMO licence, preferring to sell the property.
10. The tribunal is satisfied that sums of £400 security deposit and £1900 rent were paid by the Applicants to the Respondent in respect of their tenancy. The tribunal also finds that the parties subsequently varied the agreement as to the amount of rent with the Respondent accepting the £400 security deposit in satisfaction of the rent due on 23/10/2017 and on the understanding the Applicants would move out of the property promptly at the end of their contractual term.
11. The tribunal prefers the evidence of the Applicants to the written evidence of the Respondent, who as she did not attend the hearing could not be questioned. The tribunal finds that the Respondent did harass the Applicants and interfered with their enjoyment of the property by entering their room uninvited and without their permission as well as contacting them unreasonably at their workplace. The tribunal does not accept the Respondent's assertions of damage and loss caused by the Applicants and notes the substantial sum at which, the subject property was advertised for sale. The tribunal also finds that the Respondent has made no reference to her financial circumstances or provided any evidence of these or any outgoings she incurred on this property.
12. Therefore, the tribunal having regard to the provisions of sections 43 and 44 of the Housing and Planning Act 2016 determines that it is appropriate to make a rent repayment order in the sum of £2,300 reflecting the totality of the rent paid by the Applicant to the Respondent for the period 23/08/17 to 23/11/2017.
13. Further, the tribunal determines that in the circumstances it is appropriate to require the Respondent to reimburse the Applicants the sum of £300 for the application and hearing fees paid by them.

Signed: Judge Tagliavini

Dated: 12 October 2018