



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

Case Reference : **BIR/00FY/HMJ/2020/0002**

Subject Property : **8 Westbury Road
Nottingham
NG5 1EP**

Applicant : **Ms Campbell**

Representative : **Mr P Jackson, Nottingham Law Centre**

Respondent : **Mr F Younis**

Representative : **Mr Gibson, LDC Law**

Type of Application : **Application under sections 40, 41(1), 43 &
44 of the Housing and Planning Act 2016
for a rent repayment order**

Tribunal Members : **Graham Freckelton FRICS (Chairman)
Mr R Chumley Roberts MCIEH, J.P**

**Date and Place
of Hearing** : **1st October 2020. The matter was
dealt with by a Skype Hearing**

Date of Decision : **7th October 2020**

DECISION

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INTRODUCTION

1. This is a decision on an application for a rent repayment order under section 41 of the Housing and Planning Act 2016 ('the 2016 Act') but arises out of an alleged offence under section 1(2), (3) or (3a) of the Protection from Eviction Act 1977 ('the 1977 Act').

BACKGROUND

2. The Applicant is the former tenant of 8 Westbury Road, Nottingham, NG5 1EP ('the subject property').
3. The property was held by the Applicant on an Assured Shorthold Tenancy dated 28th November 2011 at a rental of £500.00 per calendar month. The rent subsequently increased to £550.00 per calendar month. The date of the increase is not known or recalled by the parties but is not relevant to this decision as it is agreed by the parties that the rent payable was £550.00 per calendar month during the period of 12 months prior to the date of the alleged offence.
4. The Respondent is the landlord of the subject property.
5. The Applicant alleges that the Respondent unlawfully evicted her from the subject property on 23rd April 2019 by changing the locks.

PRELIMINARY ISSUE

6. It is agreed by the parties that the alleged offence took place on 23rd April 2019.
7. In accordance with Section 41(2)(b) of the 2016 Act an Application for a Rent Repayment Order must be made within 12 months of the date on which the offence took place. The Application form submitted by the Applicant to the Tribunal and included in the written submissions was dated 21st April 2020 but had been stamped as being received by the Tribunal on 24th April 2020.
8. The Respondent submitted that this was outside the 12-month time limit allowed for an application under the 2016 Act as it should have been received by 22nd April 2020 and certainly no later than 23rd April 2020, depending on the exact date the locks to the front entrance door of the subject property were changed. The Respondent further submitted that if the application had been made out of time then the hearing should proceed no further.
9. The Tribunal adjourned and determined that they would allow the Application to proceed. For the sake of completeness, the Tribunal now confirms the reason for that Decision.
10. The Application was signed by the Applicant and dated 21st April 2020. This is within the 12-month period permitted. The Application was faxed to the Tribunal on 21st April 2020 and the original was then posted. The Application was therefore received by the Tribunal within the 12-month period allowed under the 2016 Act. The original copy of the Application was received through the Royal Mail postal service by the Tribunal on 24th April 2020 and stamped accordingly by the office. In fact, on 22nd April the Application had already been referred to the Deputy Regional Judge and as such the Tribunal determined that it was submitted in time.
11. Directions were issued on 29th April 2020 following which submissions were made and copied to the other party.

THE LAW

12. The relevant provisions of the 2016 Act, so far as this application is concerned, are as follows –

40 Introduction and key definitions

(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 ...

(3) A reference to ‘an offence to which this Chapter applies’ is to an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord.

	Act	Section	General description of offence
2	Protection from Eviction Act 1977	Section 1(2), (3) or (3A)	Eviction or harassment of occupiers

41 Application for rent repayment order

(1) A tenant or a local housing authority may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies.

(2) 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.

...

43 Making of rent repayment order

(1) The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).

(2) A rent repayment order under this section may be made only on an application under section 41.

(3) The amount of a rent repayment order under this section is to be determined in accordance with—

(a) section 44 (where the application is made by a tenant);

...

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.
 - (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.
13. The relevant provisions of the 1977 Act, so far as this application is concerned, are as follows-

1 Unlawful eviction and harassment of occupier

- (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.

2 Restriction on re-entry without due process of law

Where any premises are let as a dwelling on a lease which is subject to a right of re-entry or forfeiture it shall not be lawful to enforce that right otherwise than by proceedings in the court while any person is lawfully residing in the premises or part of them.

THE PROPERTY INSPECTION

14. Due to the Covid-19 Pandemic, in accordance with the revised Tribunal Regulations the Tribunal was unable to inspect the property. This was accepted and agreed by the parties.

THE SUBMISSIONS

15. Both parties provided written submissions. These, together with submissions made at the hearing are summarised as follows:

The Applicant's Submissions

16. The Applicant submitted that on 23rd April 2019 she went to stay with her daughter for the night leaving her home at around 9.00pm.
17. On the 24th April 2019 the Applicant submitted that at around 12.00 noon she received a telephone call from her partner telling her that he had found a note on the door of the subject property which said something about an eviction. At the same time, he confirmed he was unable to gain access to the property with his key.
18. The Applicant further submitted that she then travelled to the property (on the 24th April 2019) and was unable to gain access to the property with her key. She was told by a neighbour's son that there had been a note pinned to the door earlier in the day. Not knowing what to do the Applicant returned to her daughter's home as she had nowhere else to stay. She was anxious about

her possessions, including her medication and passport which remained in the property as she realised that the locks must have been changed.

19. The Applicant submitted that she then telephoned the Respondent but was unable to speak to him. On 26th April 2019 she telephoned the Police who recorded the incident, issuing an incident number and advised her to seek legal advice.
20. On 30th April 2019 the Applicant made a Homeless Person's Application to Nottingham City Council and on 1st May 2019 the Applicant met with a legal adviser at Nottingham Law Centre who contacted the Respondent. Following that contact the Respondent agreed not to dispose of the Applicant's possessions but did not agree to allow the Applicant back into the property.
21. The Applicant submitted that she was in receipt of housing benefit and having contacted Nottingham City Council's Housing Benefits Department it was confirmed to the Applicant that the Respondent had been receiving housing benefit at a rate of £363.60 every four weeks for the previous year. The Applicant was unable to recall what had happened in April 2018 when she stopped receiving benefit payments as she had continued to pay the full rent to the Respondent.
22. The Applicant further submitted that the loss of her home had caused her a considerable amount of worry, distress and inconvenience. The Applicant confirmed that she suffered from a number of health problems. The Tribunal do not intend to detail those here but during the hearing it was accepted by the Respondent that he was aware that the Applicant had been ill following an earlier car accident.
23. To particularise the details of the effect on the Applicant following the loss of her home it was submitted that she suffered five to six panic attacks per day inside and she became more anxious about going out. Initially, when the Applicant went out it was only because she was homeless and had to attend interviews which was very stressful to her. Prior to the loss of her home the Applicant submitted that she could manage to go out on her own but afterwards she always needed to have someone with her.
24. As a result of the eviction the Applicant submitted, she was homeless for approximately six weeks and although her current property became available from 5th June 2019 she could not move immediately because she needed to purchase furniture and carpeting. It therefore took some two or three weeks before her new flat was ready.
25. During the time of her homelessness the Applicant submitted that she slept on a sofa at her daughter's house and as her medication was locked in the subject property, she had to obtain an emergency prescription. At the same time, she incurred expenses of £220.00 for van hire, £216.00 for skip hire and £214.00 for storage. The Applicant also had to dispose of some of her personal possessions and found the whole experience very stressful and upsetting. No receipts in respect of the alleged expenses were submitted to the Tribunal.
26. The Applicant further submitted that the Respondent had previously attempted to obtain possession of the property by serving a Section 21 Notice. The Notice served (on two occasions) was invalid and the Applicant therefore remained in occupation of the subject property. Apart from indicating the past behaviour of the Respondent these earlier notices have no immediate bearing

on the application and the Tribunal does not intend to discuss them further except to confirm that they are noted with regards to the conduct of the Respondent. The Tribunal understands that at no time was an Application for Possession made by the Respondent to the County Court.

27. A further witness statement was provided by Ms D Augustus, the daughter of the Applicant, which confirmed and amplified the statement provided by the Applicant herself.
28. At the hearing the Applicant further submitted, through her Representative that the Respondent admitted that he had changed the locks to the subject property. The Respondent had claimed that there was a surrender of the keys which were alleged to have been given to the Respondent by the Applicant's partner Mr E MacGibbon. The Applicant denied that Mr MacGibbon had surrendered the keys to the Respondent (this was confirmed by Mr MacGibbon at the Hearing) and referred to the case of *Smith-v-Khan [2018] EWCA Civ 1137*, where Patten LJ, held that surrender requires an "unequivocal representation" by the tenant that she wishes to give up her tenancy.
29. The Applicant submitted that if the Respondent sought to rely on an allegation that the Applicant's partner handed him the keys, and even if this was found to be the case by the Tribunal, Mr MacGibbon was not a party to the tenancy agreement and so it was not in his gift to surrender the tenancy in any event.
30. With regard to the payment of rent it was submitted that from April 2018 – April 2019 the rent was £550.00 per calendar month. This was not disputed by the Respondent. The Applicant confirmed that as far as she was aware, she had paid the rent of £550.00 per calendar month in cash to the Respondent (via his parents who lived in the next door property), every month although she accepted that there may have been some months when rent was not paid. However, as during this period rent was paid directly to the Respondent by way of Housing Benefit at the rate of £363.60 every four weeks, she should only have been paying a top up balance of £186.40 whereas she had actually been paying the full rent of £550.00.
31. To support this the Applicant referred the Tribunal to bank statements she had provided detailing cash withdrawals. The Tribunal considered these but determined that the confirmation of cash withdrawals could not be proved to be linked to alleged payments to the Respondent.

The Respondent's Submissions

32. The Respondent submitted that during the course of the tenancy he only had contact with the Applicant if the rent was overdue or if he required access to the property for such matters as boiler service and gas safety certificates. Over the years the Applicant denied access for services and inspections and never let the Respondent's contractors in despite being given due notice.
33. On 19th October 2018 The Respondent served a Section 21 Notice but when the notice period expired, he did not pursue the matter but allowed the Applicant to remain in the property although he alleged that he was aware of a number of breaches of the tenancy agreement.
34. The Respondent submitted that rent was persistently late and in the first few months of 2019 was not at paid all. During that time the Respondent became

aware that it appeared that the Applicant was no longer living at the property. The Respondent spoke to his mother (who lived next door) and it was confirmed to him that there appeared to be no activity in the property.

35. It was further submitted that in March 2019 the Respondent telephoned the Applicant regarding the non-payment of rent. However, the Applicant's daughter spoke to him in a threatening manner. Following this, on 6th March 2019 a further Section 21 Notice was served.
36. The Respondent submitted that the relationship between landlord and tenant had broken down and at this point the rent was in arrears. In the opinion of the Respondent the terms of the tenancy agreement had been broken, not only due to the outstanding rent also because access was not granted to carry out repairs.
37. The Respondent further submitted that on 23rd April 2019 he was outside his parents' house (next door to the subject property) when he spoke to a man who he believed lived with the Applicant although he was not the tenant. The Respondent was informed that the Applicant had not been living at the property but had in fact been living with her daughter. The Respondent was then handed the keys to the property and informed that the man was moving out and the Applicant had already left. It was confirmed that belongings had been left in the property by the Applicant and the Respondent was informed that the Applicant would be making the necessary arrangements to remove these, but had already taken the important things.
38. At the hearing the Respondent confirmed that he had changed the locks during the afternoon of 23rd April 2019.
39. The Respondent further submitted that he did not hear from the Applicant or Nottingham Law Centre regarding the collection of items from the property until 9th May 2019 following which he co-operated and allowed her access to the property.
40. It was submitted by the Respondent that at no time had the Applicant sought to return to the property or made any contact to show that she still lived there. Had she done so it would have shown that she had not surrendered the tenancy and in the submission of the Respondent the fact that she had given the keys back via her partner indicated that she did not wish to remain in the property. The Respondent was of the opinion that following service of the Section 21 Notice on 6th March 2019 the Applicant had surrendered the property by returning the keys.
41. With regard to the payment of rent the Respondent admitted at the hearing that he had received payments in cash. Although copy receipts were provided for some payments during 2016 no receipts were provided for the period April 2018 – April 2019. The Respondent submitted that he had only received cash payments of £186.40 and not £550.00 during the period that he was being paid rent by the housing benefit system.
42. However, it was noted by the Tribunal that in the Respondent's written submission it stated that payments in August and September 2018 of £550.00 each were missed together with payments of £186.40 in January, February and March 2019. This indicates to the Tribunal that certainly in 2018 the Respondent accepted that the Applicant was still paying rent to the Respondent at the rate of £550.00 per calendar month.

43. At the hearing the Respondent submitted that he believed, when he was given the key to the property by the Applicant's partner that the Applicant had ceased to reside in the property.

DETERMINATION OF THE TRIBUNAL

44. In order to determine whether or not it is appropriate to consider making a rent repayment order it is first necessary for the Tribunal to determine whether or not an offence has been committed under section 1(2), (3) or (3a) of the Protection from Eviction Act 1977.

45. It is not disputed by the parties that the locks to the subject property were changed on 23rd April 2019. However, it is disputed whether or not the Applicant gave up possession by Mr MacGibbon handing over the key to the property and whether or not this was in any event sufficient to surrender occupation.

46. At this point it is fair to say that there is an obvious discrepancy in the evidence of the two parties. The Applicant submits that she left the property at around 9.00pm on the night of the 23rd April 2019 to stay with her daughter and that she received a telephone call from Mr MacGibbon on 24th April 2019 confirming that he could not gain access. The Respondent submits that he changed the locks during the afternoon of 23rd April 2019 (when, according to the Applicant she was still residing in the property). Although it does not have a material bearing on the case, for completeness, the Tribunal accepts the evidence of the Respondent that the locks were changed on 23rd April 2019 and from Mr MacGibbon that he was unable to gain access on 24th April 2019. The only logical conclusion is that the Applicant actually left the property to stay with her daughter on the evening of 22nd April 2019 to allow the Respondent to change the locks on 23rd April 2019. This is a minor discrepancy but it is referred to for completeness.

47. It is alleged by the Respondent that Mr MacGibbon handed his key to the Respondent confirming that he and the Applicant had left the property. This is denied by Mr MacGibbon (most strenuously at the hearing).

48. In this matter the Tribunal prefers the evidence of the Applicant. However, even if Mr MacGibbon did hand his key to the Respondent this is not sufficient to bring the tenancy to an end. The Tribunal is mindful of the case of *Smith-v-Khan [2018] EWCA Civ 1137*, where Patten LJ, held that surrender requires an “*unequivocal representation*” by the tenant that she wishes to give up her tenancy. In this case there is no suggestion by the Respondent that the Applicant surrendered her key or informed the Respondent that she was intending to vacate. An indication of such by the Applicant's partner is not sufficient to bring the tenancy to an end.

49. The Tribunal is also mindful that at the time the Respondent changed the locks (during the afternoon of 23rd April 2019) the Applicant's belongings remained in the property. The Tribunal is of the opinion that this should have indicated to the Respondent that the Applicant had not vacated.

50. It is worth noting that even if Mr MacGibbon had handed his key to the Respondent during the morning of 23rd April 2019 (which the Tribunal does not accept), to change the locks during the afternoon of the same day shows a degree of zeal on the part of the Respondent which is scarcely believable.

51. Having determined that an offence was committed by the Respondent the Tribunal went on to consider the question of any rent repayment order.

52. The Tribunal considered the application in four stages –

- (i) Whether the Tribunal was satisfied beyond reasonable doubt that the Respondent had committed an offence under section 79(1) of the 2004 Act in that at the relevant time he was a person who controlled or managed the property.
- (ii) Whether the Applicant was entitled to apply to the Tribunal for a rent repayment order.
- (iii) Whether the Tribunal should exercise its discretion to make a rent repayment order.
- (iv) Determination of the amount of any order.

Offence under section 95(1) of the 2004 Act

53. In accordance with sections 43(1) of the 2016 Act, the Tribunal was satisfied beyond reasonable doubt that the Respondent, as landlord of the subject property, had committed an offence listed in section 40 of the 2016 Act, namely an offence under section 1(2), (3) or (3a) of the Protection from Eviction Act 1977.

54. Throughout the period from 24th April 2018 to 23rd April 2019 the subject property was occupied by the Applicant and:

- (i) The Applicant was unlawfully evicted on 23rd April 2019.
- (ii) The Respondent was the person having control and/or managing the subject property.

Entitlement of the Applicants to apply for a rent repayment Order

55. The Tribunal determined that the Applicant was entitled to apply for a rent repayment order pursuant to section 41(1) of the 2016 Act. In accordance with section 41(2), the Respondent was committing the relevant offence as the subject property was let to the Applicant during the relevant period; and the offence was committed in the period of 12 months ending with the day on which the application was made to the Tribunal (21st April 2020).

Discretion to make rent a repayment Order

56. The Tribunal was satisfied that there was no ground on which it could be argued that it was not appropriate to make a rent repayment order in the circumstances of the present case.

Amount of the Rent Repayment Order

57. In accordance with section 44 of the 2016 Act, first, the amount of an order must relate to rent paid in a period of 12 months during which the landlord was committing an offence under section 95(1) of the 2004 Act. The Applicants' claim satisfies that condition.

Second, the amount that the landlord is required to pay in respect of a period must not exceed the rent paid in respect of that period.

On this point there is no agreement between the parties. The Applicant submits that she paid rent at £550.00 per calendar month for the whole of the period although admits that she cannot be sure that all payments were made. Ms Augustus and Mr MacGibbon submit that they think monthly payments were made in cash for each month but there is no evidence by way of receipts submitted to prove this.

The Respondent submits that he received payments of £363.60 every four weeks from Housing Benefit and therefore only received top up payments of £186.40 from the Applicant. However, his written submission contradicts this in that it states payments of £550.00 were outstanding for August and September 2018 with the 'top up' payments of £186.40 only being outstanding for January, February and March 2019.

Third, in determining the amount of any rent repayment order, the Tribunal must, in particular, take into account the conduct of the parties, the financial circumstances of the landlord and whether the landlord has been convicted of any of the offences listed in section 40 of the 2016 Act.

58. In the first instance the Tribunal considered the rent actually paid by the Applicant. During the Hearing the Tribunal asked detailed questions and received evidence from both parties regarding the rent payment. This evidence was contradictory and without proof of the amount of any payments made the Tribunal has had no alternative but to assess this on the balance of probability.
59. Based on the written admission of the Respondent as to the amount of rent he considered to be outstanding during 2018 the Tribunal determined that during the period April – December 2018 the Applicant paid rent to the Respondent at the rate of £550.00 per calendar month. This was in spite of the fact that the Respondent was also receiving payment on behalf of the Applicant directly from Housing Benefit.
60. The Applicant cannot remember whether or not she paid rent in August and September and at the hearing neither the Applicant, Ms Augustus or Mr MacGibbon could categorically confirm that rent was paid for those two months. The Tribunal therefore determined on the balance of probability that the Applicant paid rent of £550.00 per calendar month during the period April – December 2018 excluding the months of August and September (seven payments in total).
61. For the period January – April 2019, on the balance of probability the Tribunal determines that rent was paid by the Applicant at the rate of £186.40 per month being the 'top up' due to the Housing Benefit payment but that payment was not made in January, February and March but was made in April.
62. The Tribunal notes that Housing Benefit is paid every four weeks, whereas the rental is due monthly. The parties have not raised this point in their submissions and the Tribunal do not therefore intend to make any further determination on this point as despite the potential mathematical discrepancy it appears generally accepted by the parties that a top up rent of £186.40 would be required on a monthly basis. In any event, although it impacts on the amount of rent paid by Housing Benefit, it does not affect the amount of rent actually paid by the Applicant.

63. The Tribunal therefore determined that the eligible period for a Rent Repayment Order is as follows:

Rent paid during 2018 (7 months @ £550.00 per month)	3,850.00
Rent paid during 2019 (1 month @ £186.40)	186.40
Total Rent paid during 12-month period	£4,036.40

64. The Tribunal therefore determined that the maximum amount of any Rent Repayment Order is the sum of £4,036.40.

65. The Tribunal had regard to the case of *Vadamalayan-v-Stewart and others* (2020 UKUT 0183) which concerned the calculation of a rent repayment order under section 44 of the 2016 Act. In that case Judge Elizabeth Cook held that:

18. ... under the current statute, in the absence of the provision of reasonableness, it is difficult to see a reason for deducting either a fine or a financial penalty, given Parliament's obvious intention that the landlord should be liable both (1) to pay a fine or civil penalty, and (2) to make a repayment of rent.

19. The only basis or deduction is section 44 itself and there will certainly be cases where the landlord's good conduct, or financial hardship, will justify an order less than the maximum. But the arithmetical approach of adding up the landlord expenses and deducting them from the rent, with a view to ensuring that he repay only his profit, is not appropriate and not in accordance with the law. I acknowledge that that will be seen by landlords as harsh, but my understanding is that Parliament intended a harsh and fiercely deterrent regime of penalties for the HMO licensing offence.

*53. The provisions of the 2016 Act are rather more hard edged than those of the 2004 Act. There is no longer a requirement of reasonableness and therefore, I suggest, less scope for the balancing of factors that was envisaged in *Parker-v-Waller* [2012 UKUT0301]. The landlord has to repay the rent, subject to considerations of conduct and his financial circumstances.*

66. In accordance with section 44(4)(a) of the 2016 Act, the Tribunal considered the conduct of the Applicant and Respondent.

67. There is no conduct on behalf of the Applicant which would cause the Tribunal to consider amending the amount of the Order.

68. However, the conduct of the Respondent is such that it determines that it should be reflected, if possible, in the Order.

69. Therefore, distilling the substance of the Act in this case the Tribunal determines that it should consider whether deductions should be made from the maximum amount set out in paragraph 64. In particular the Tribunal had regard to the following:

- 1) The Respondent has committed a serious offence.
- 2) The Respondent has not been convicted of any offence listed in Section 40 of the 2016 Act.
- 3) The Respondent has previously issued two invalid Section 21 Notices in an attempt to obtain possession of the property.

- 4) The Respondent was aware that the Applicant's possessions were still in the property when he changed the locks.
70. Based on the above the Tribunal determined that although it was unable to increase the maximum amount of any Rent Repayment Order, it would reduce the amount of any allowance it might make to reflect the Respondent's personal circumstances to reflect the conduct of the Respondent.
71. In accordance with section 40 of the 2016 Act the Tribunal is obliged to take into account the personal circumstances of the Respondent. Although no written submissions had been made by the Respondent, at the hearing the Tribunal enquired as to the personal circumstances of the Respondent.
72. The Tribunal was informed by the Respondent that due to debts he had to sell his two other investment properties in 2017. Over the last three to four years he had struggled with his business. He and his wife ran a take-away. The last six months had been particularly difficult due to the COVID-19 Pandemic. The Respondent confirmed that all the funds realised from the sale of the two properties had gone to service outstanding debts and he still had some debts he was continuing to pay.
73. The Respondent submitted that he had four children and a mortgage on his own property of £1100.00 per month with a further mortgage of £400.00 per month on the subject property. His two elder children of 21 and 22 years of age were both at university although living at home and his two younger children of 11 and 15 years of age were still at school.
74. It was further submitted by the Respondent that he and his wife were each paid a monthly salary of £1,020.00 from the business.
75. On the basis of information provided the Tribunal determined that it was appropriate to make a deduction due to the personal circumstances of the Respondent of 10% of the maximum amount of the Rent Repayment Order. However, the Tribunal determined to reduce this to 5% in view of the conduct of the Respondent as detailed in paragraphs 69 and 70.
76. The Tribunal therefore determines that it will make a Rent Repayment Order for the period 22nd April 2018 – 23rd April 2019 as follows:
- | | |
|---|---------------|
| Maximum amount of Repayment Order as per paragraph 64 | 4,036.40 |
| <u>Less 5% to reflect personal circumstances</u> | <u>201.82</u> |
| Amount of Repayment Order | £3,834.58 |
77. The Tribunal therefore determines the Rent Repayment Order in the sum of £3,834.58 (Three Thousand Eight Hundred and Thirty-Four Pounds Fifty-Eight Pence). Payment should be made by the Respondent to the Applicant in full within 28 days of the date of this Decision.

APPEAL

78. Any appeal against this Decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal an aggrieved party must apply in writing to the First-tier Tribunal for permission to appeal within 28 days of the date of this Decision specified above stating the grounds on which that party intend to rely in the appeal.

Graham Freckelton FRICS
Chairman. First-tier Tribunal (Property Chamber) (Residential Property)