



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

**Case Reference** : **LON/00BG/HMF/2021/0213**  
**Property** : **67 Cleveland Way, Bethnal Green,  
London , E14TZ**  
**Applicants** : **Andrea Vela Cardenas, Alexandra Sevin,  
Gerard Isaacs, Valerio Bovieri, Axel  
Buchailot**  
**Representative** : **Muhammed Williams**  
**Respondents** : **J&G Home Share Limited**  
**Representative** :  
**Type of Application** : **Application for a Rent Repayment Order**  
**Tribunal Members** : **Judge Shepherd  
Louise Crane MCIEH**  
**Date of Determination** : **14<sup>th</sup> February 2022**

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**Determination**

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1. In this case the Applicants , Andrea Vela Cardenas, Alexandra Sevin, Gerard Isaacs, Valerio Bovieri and Axel Buchailot (“The Applicants”) are claiming rent repayment orders against the Respondent, J and G Home Share Limited (“The Respondent”). The claim was originally also against Monuara Begum and Rafeela Begum who are legal the owners of the premises. The claim against them was discontinued and the sole Respondent is J and G Home Share Ltd.

2. The claim relates to the premises at 67 Cleveland Way, Bethnal Green, London E1 4TZ (“The premises”). The owners of the premises let them for single household use to Home Connect Ltd who in turn sub - let the premises to the Respondents. In turn the Respondents allowed the applicants to occupy the premises. The agreements made with the occupiers were referred to as licence agreements however it seems likely they were assured shorthold tenancies. This is not a matter which needs to trouble the Tribunal however.
  
3. It is the Applicants’ contention that the Respondents allowed them into occupation without having an HMO license. The premises are subject to the additional licence scheme run in Tower Hamlets which has been in place since 1 April 2019. This scheme requires an additional licence in all properties where there are three or more people living as two or more households and they share facilities such as a bathroom or kitchen and at least one of the tenants pays rent. It seems likely also that the premises were caught by the mandatory licensing scheme pursuant to statute (see below).
  
4. In terms of each Applicant's occupation of the premises and their individual claims:
  - Ms Cardenas signed a licence to occupy agreement with the Respondents starting from 1 January 2020 until 1 April 2020. She then signed another agreement from 1 April 2020 until 1 October 2020. She paid rent of £585 a month throughout her tenancy. She claims a rent repayment order from 29 October 2019 until 28 August 2020 which amounts to **£6401**.
  
  - Mr Bovieri’s first licence to occupy in the premises began on 1 April 2019 and lasted until 1 October 2019. He then signed another licence from 1 April 2019 until 1 October 2019. He then signed a further licence agreement from 1 October 2019 until 1 April 2020. Finally he find signed a licence agreement from 1 April 2020 until 1 October 2020. He paid rent of £628 a month

throughout his occupation and he claims a rent repayment order of **£7536** for the period from 2 October 2019 until 2 September 2020

- Mr Isaacs first licence to occupy started from 1 May 2019 until 1 September 2019. He signed another licence from 1 October 2019 until 1 April 2020. He then signed another licence from 1 April 2020 until 1 October 2020. He paid rent of £650 a month. He claims a rent repayment order from 30 September 2019 until 31 August 2020 which is **£7800**.
- Ms Sevin's licence at the premises started on 18 January 2020 and lasted until 18 June 2020. She then signed another licence from 7 May 2020 until 1 September but was in occupation until 20 September 2020. She paid £576 per month and then following a move on 7 May 2020 to a larger room she paid £628 per month and seeks a rent repayment order for the period 18<sup>th</sup> January 2020 until 1<sup>st</sup> August 2020 which is **£4805**
- Mr Buchailot's licence at the premises began on 21 September 2020 and lasted until 21 March 2021. He paid rent of £628 a month. He claims a rent repayment order for the period 1<sup>st</sup> of October 2020 to 1 March 2021 amounting to £3768. He gave evidence to the tribunal to the effect that all of the six rooms in the premises were occupied by separate households during the time of his occupation.

## **The law**

5. The Housing Act 2004 , s.72(1) states:

*(1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.*

6. The Housing Act 2004, s. 61(1) states:

*(1) Every HMO to which this Part applies must be licensed under this Part unless— (a) a temporary exemption notice is in force in relation to it under section 62, or (b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4.*

7. Section 55 of the Housing Act 2004 states:

*Licensing of HMOs to which this Part applies*

*(1) This Part provides for HMOs to be licensed by local housing authorities where—*

*(a) they are HMOs to which this Part applies (see subsection (2)), and*

*(b) they are required to be licensed under this Part (see section 61(1)).*

*(2) This Part applies to the following HMOs in the case of each local housing authority—*

*(a) any HMO in the authority's district which falls within any prescribed description of HMO, and*

*(b) if an area is for the time being designated by the authority under section 56 as subject to additional licensing, any HMO in that area which falls within any description of HMO specified in the designation.*

8. The Licensing of Houses in Multiple Occupation Order 2018 prescribe HMOs as follows:

*Description of HMOs prescribed by the Secretary of State*

*An HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act if it—*

- (a) is occupied by five or more persons;*
  
- (b) is occupied by persons living in two or more separate households; and*
  
- (c) meets—*
  - (i) the standard test under section 254(2) of the Act;*
  
  - (ii) the self-contained flat test under section 254(3) of the Act but is not a purpose-built flat situated in a block comprising three or more self-contained flats; or*
  
  - (iii) the converted building test under section 254(4) of the Act.*

*The Additional Licensing scheme in Tower Hamlets is described in paragraph above*

**Determination**

9. The Respondents took no active role in these proceedings and have effectively gone to ground. It is clear that they are the responsible party with regard to the rent

repayment order as they granted the licence/tenancies to the applicants. Notwithstanding the fact that the Respondents did not attend the hearing the Tribunal asked questions of the Applicants' representative, Mr Williams in order to satisfy itself that the allegations were made out beyond reasonable doubt. The Tribunal has no hesitation in finding that the premises were being operated as an unlicensed HMO at the time of all of the Applicants' occupation such that the Applicants are all entitled to rent repayment orders.

10. Turning to the amount of the rent repayment order to award the tribunal has no reason to depart from that which was sought in the applications. The Respondents have chosen not to attend or engage with the Tribunal and therefore they are effectively bound by the consequence of that. There was no evidence of the financial circumstances of the Respondents and no evidence of any mitigation. Accordingly the tribunal awards the full rent repayment order for each applicant for the period in question namely:

Ms Cardenas - **£6401.**

Mr Bovieri - **£7536.**

Mr Isaacs - **£7800.**

Ms Sevin - **£4805**

Mr Buchallot - **£3768.**

11. These sums are to be paid by the Respondents to the Applicants within 14 days.

## **Judge Shepherd**

**14<sup>th</sup> February 2022**

### **ANNEX - RIGHTS OF APPEAL** Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.