



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

**Case References** : **LON/00BH/HMF/2021/0189**  
**CVP/VIDEO**

**Property** : **254 Grove Green Road London E11 4EN**

**Applicants** : **Annette Okoturo**  
**Angel Okoturo**

**Representative** : **Ms K Balaindra**

**Respondent** : **Mr B Seegolam (landlord)**

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

**Type of Application** : **Application for a rent repayment order**

**Tribunal Members** : **Judge F J Silverman MA LLM**  
**Mrs L Crane MCIEH**

**Date of CVP remote hearing** : **17 January 2022**

**Date of Decision** : **20 January 2022**

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**DECISION**

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## **Decision of the Tribunal**

**The Tribunal makes a rent repayment order against the Respondent and in favour of the Applicants jointly and severally in the sum of £7,605. Additionally the Tribunal order the Respondent to pay to the Applicants jointly and severally the sum of £300 by way of reimbursement of their application and hearing fees. The total sum payable by the Respondent is therefore £7,905.**

## **Reasons**

- 1 This application dated 05 August 2021 and acknowledged by the Tribunal on 08 August 2021 is made by the Applicants under section 41 of the Housing and Planning Act 2016 (“the Act”) requesting a rent repayment order against the Respondent in respect of the property known as 254 Grove Green Road London E11 4EN (the property) for the period 1 August 2019 to 31 July 2020 during which time the property was unlicensed.
- 2 The subject property, situated within Waltham Forest Borough Council, falls within the mandatory licensing scheme requiring all properties occupied by five or more people forming two or more households and who share amenities such as kitchens and bathrooms to be licensed.
- 3 A landlord who fails to obtain a valid licence is committing a criminal offence under s95(1) Housing Act 2004.
- 4 Following an inspection by the local authority the Respondent applied for licence on 12 August 2020. In his licensing application he confirmed that the house was occupied by six persons comprising two or more households and sharing facilities.
- 5 Owing to restrictions imposed during the Covid19 pandemic, the Tribunal was unable carry out a physical inspection of the property.
- 6 The hearing took place by way of CVP Video conference on 17 January 2022 to which the parties had consented. The Applicants were represented by Ms K Balaindra and the Respondent appeared in person. Ms Annette Okoturo was present at the hearing and gave evidence on behalf of herself and her daughter, the latter being unwell and unable to attend the hearing.
- 7 The Applicants were in lawful occupation of the property during the entire period covered by this application. They occupied two top floor rooms in the property under two tenancy agreements

both dated 03 July 2019 and by continuous periodic tenancies after their expiry. The rent payable during the relevant period covered by this application was £500 each per calendar month. Ms Angel Okoturo did not earn enough to pay all of her rent and used to pay money to her mother (Ms Annette Okoturo) who paid the rent for both rooms to the Respondent from her bank account as evidenced on page 26 of the Applicants' hearing bundle.

- 8 The Respondent raised a number of objections to Ms Angel Okoturo's application including the fact that Ms Annette Okoturo had signed her daughter's contract on her behalf, that the latter's rent was paid by her mother and that Ms Angel Okoturo's signature to the Tribunal application form was delivered after the application had been accepted by the Tribunal. The Tribunal can find no merit in any of these objections. Ms Annette Okoturo explained to the Tribunal that her daughter suffered from a medical condition as a result of which she (Ms Annette Okoturo) dealt with business matters on her daughter's behalf. The Respondent did not refute Ms Annette Okoturo's statement that she had her daughter's authority to sign on her behalf. The Tribunal can see no objection to Ms Annette Okoturo making one direct transfer of the rent on behalf of herself and her daughter instead of there being two separate transfers. The Respondent does not seem to have raised any objection to this practice when the Applicants were living in the property nor does he dispute that the Applicants rented and paid for two rooms under two separate tenancy agreements provided by him and signed in his presence. The Respondent's objection to Ms Angel Okoturo's belated signature of the Application form seems to stem from his misunderstanding of the time limits applicable to this type of application. The 'twelve month' rule applies to the period of twelve months preceding the date of the application to the Tribunal where the offence was committed during that period. The Application was made on 05 August 2021 and the offence of not having a licence occurred within the twelve months preceding that date. The tenants are then entitled to apply for a rent repayment order for any consecutive 12 month period within the period when the landlord was committing an offence.
- 9 The Tribunal had therefore correctly accepted the application signed by Ms Annette Okoturo for herself and her daughter. The application would equally have been valid if it had been signed only by the Applicants' representative on their behalf.
- 10 The Applicants accept that they accumulated some arrears of rent during the lock down period in 2020 and an allowance for the sums owed by them during this period has been made in calculating the amount claimed. Except as above (paras 8 and 9) the Respondent did not challenge the amount claimed by the Applicants. Proof of payment was demonstrated in an extract from Ms Annette Okoturo's bank account (page 26). This was not challenged by the Respondent.

- 11 The Tribunal does not accept the Respondent's assertion that Ms Annette Okoturo, who appears to have had interests in property companies, should have checked that the property had a licence before moving in. The Applicants say that they were unaware that the property did not have a licence until informed of that fact after a visit by Ms King of Waltham Forest Council who had inspected the property following a complaint made by the Applicants about the condition of the property (pages 39-44). Ms King's inspection revealed a number of defects in the property in addition to the licensing offence.
- 12 It is the landlord's duty to ensure compliance with the law, not the tenant's duty to check that the property has a licence. As a professional landlord the Respondent should have known this. In reply to a question from the Tribunal the Respondent said he owned 6 rental properties all of which were licensable and none of which were licensed at the time of the inspection by Ms King. He had now applied for licences in respect of all these properties.
- 13 The Applicants also alleged that the Respondent had harassed them and had attempted to evict them unlawfully in that he had failed to serve a valid s21 notice and had sought to evict them during a period when the then current Covid regulations forbade landlords from pursuing possession actions.
- 14 In response the Respondent said variously that the Applicants' tenancy had ended (he seemed not to understand the nature of a periodic tenancy) that he had told the Applicants he needed possession to do works to the property and that he had sent the Applicants a text message which was the same as a s21 notice. The Tribunal disagrees with this interpretation of the law.
- 15 A further part of the Applicants' harassment allegations related to the Respondent having turned off the power to the Applicants' rooms depriving them of both heat and water. The Respondent's response to this was not entirely transparent and the Tribunal concludes that at least one instance of this behaviour had occurred even if only for a brief period.
- 16 The Applicants also complained that the Respondent had failed to protect their deposit as required by law. The Respondent said he did not need to do this as the initial payment had been an advance payment of rent for the final month of the tenancy and not a deposit. This application is not concerned with return of deposit orders and does not discuss this matter further although it notes the Respondent's misinterpretation of the statutory provisions.
- 17 Having considered the evidence presented to the Tribunal it was satisfied beyond reasonable doubt that the Respondent had committed an offence under section 95 (1) of the Housing Act 2004 (as amended), namely, that he had been in control or management of an unlicensed house.
- 18 It follows that the Tribunal was also satisfied that it was appropriate to make a rent repayment order under section 43 of the Act in favour of the Applicants jointly and severally for the 12-month period commencing on 1 August 2019. Any award could not exceed the total rent of £7,605 received by the Respondent for

this period of time. This sum is the adjusted sum submitted to the Tribunal at the hearing having taken into account the amounts actually paid by the Applicants during this period and acknowledging rent arrears caused by the Applicants' lack of employment during the Covid lockdown. There was no evidence that the Applicants had been in receipt of deductible benefits during this period.

- 19 As to the amount of the order, the Tribunal had regard to the following circumstances under section 44(4) of the Act.
- 20 The Respondent is a professional landlord who should have been aware of the need to obtain a licence. Ignorance of the law is not a defence under the Act.
- 21 The property was adequately maintained but remediable defects were found on the Council's inspection.
- 22 That, once the Respondent became aware of the need to obtain a licence he applied for one reasonably promptly.
- 23 That the Council did not consider the Respondent's offence to be sufficiently serious to prosecute him.
- 24 The Tribunal did not have details of the Respondent's financial circumstances but no plea of financial hardship was made. He stated that the Applicants' rent was inclusive of outgoings and included in his statement a generic list of expenditure on the property during the relevant period but did not substantiate this with receipts.
- 25 In circumstances where a professional landlord has not produced any evidence to validate his expenditure and has demonstrated a remarkable ignorance of the applicable law including harassment and unlawful eviction the Tribunal is reluctant to deduct any sums from the amounts claimed by the Applicants.
- 26 On balance therefore, and taking into account the Respondent's conduct and the fact that the Applicants suffered some inconvenience during their occupation, the Tribunal considers that it would be reasonable to make an award of the full amount claimed by the Applicants of £7,605. This is the sum awarded under this Order which is to be paid by the Respondent to the Applicants jointly and severally.
- 27 The Tribunal also considers it reasonable to order the Respondent to repay to the Applicants jointly and severally the sum of £300 representing the reimbursement of their application and hearing fees.
- 28 This brings the total award payable by the Respondent to £7,905.

## 29 Relevant Law

### Making of rent repayment order

Section 43 of the Housing and Planning Act 2016 ("the Act") provides:

“(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);

(b) section 45 (where the application is made by a local housing authority);

(c) section 46 (in certain cases where the landlord has been convicted etc).

Amount of order: tenants

16. Section 44 of the Act provides:

(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.

If the order is made on the ground that the landlord has committed

an offence mentioned in row 1 or 2 of the table in section 40(3)

an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)

the amount must relate to the rent paid by the tenant in respect of the period of 12 months ending with the date of the offence

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.”

**Name:** Judge Frances Silverman  
as Chairman      **Date:** 20 January 2022

Note:  
Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case. Under present Covid 19 restrictions applications must be made by email to [RPlondon@justice.gov.uk](mailto:RPlondon@justice.gov.uk).
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.