



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

<b>Reference</b>	: LON/OOBG/HMF/2021/0028
<b>Property</b>	: 105 Rhodeswell Road, London E147TW
<b>Applicants</b>	: Alessia Annicchiarico and Alexandro Morrocu
<b>Representative</b>	: Muhammed Williams
<b>Respondent</b>	: EMPL Property Management Limited; Mr M Tuhin; Shahana Yasmin and Rahana Yasmin
<b>Representative</b>	: Did not attend
<b>Type of Application</b>	: Application for a Rent Repayment Order
<b>Tribunal Members</b>	Judge Shepherd : Chris Gowman MCIEH
<b>Date of Decision</b>	: 17 <sup>th</sup> March 2022

**DETERMINATION**

1. In this case the Applicants are seeking a Rent Repayment Order pursuant to section 41 (1) of the Housing and Planning Act 2016. It is the Applicants' case that the

premises at 105 Rhodeswell Road, London, E147TW (“The Premises”) required an additional HMO license from the 16<sup>th</sup> October 2019 until 23<sup>rd</sup> September 2020 (“ The relevant period”). Tower Hamlets introduced an Additional License scheme on 1<sup>st</sup> April 2019. The Respondents who are the owners and landlord at the premises failed to properly apply for such a license until 31<sup>st</sup> March 2021. The council had to write to the Respondents on a number of occasions threatening action.

2. The Respondents took no real part in the Tribunal proceedings and sought to evade the Rent Repayment Order by sending an email to the Tribunal in which they claimed that there was a resident landlord and the claim had been improperly made. The Tribunal heard evidence from the two Applicants who were cogent, honest and clear. There was no resident landlord living at the premises. Instead for the whole of the relevant period the Applicants shared the house with four other single person households.

3. The Additional HMO licensing scheme in Tower Hamlets applies to all households with three or more people living as two or more households who share facilities including a bathroom and kitchen and at least one of them pays rent. The scheme also includes properties with five or more tenants living as two or more households in purpose built flats with three or more bedrooms.

4. The Applicants seek an RRO of £8550 representing rent paid for the relevant period.

## **Background**

5. The Applicants were assured shorthold tenants of the premises. The Respondents sought to evade the protection of the Housing Act 1988 by calling the legal arrangement a license. This was a sham. The occupiers all had exclusive possession of a room and their tenancies were protected under s.3 of the Housing Act

1988. The Applicants' tenancy began on 15<sup>th</sup> November 2018 and they remained in occupation until 23<sup>rd</sup> September 2020. The tenancy was granted by EMPL Properties Management Ltd. Mr Tuhin is a Director of EMPL. The owners of the premises are the remaining named Respondents.

6. Following a doorstep survey it was discovered that there was no license for the premises despite there being five bedrooms and five occupiers. Following letters from the council Mr Tuhin Ali applied for a license. He failed to submit relevant documents including a gas safety record and an electricity installation report. These documents arrived dated 10<sup>th</sup> October 2020 and 13<sup>th</sup> January 2021 which suggests that the Respondents had not obtained them before. This of considerable concern as the safety of the occupiers was compromised.

### **The hearing**

7. Mr Williams from Tower Hamlets appeared on behalf of the Applicant. He apologized for not serving witness statements. He was asked to ensure that in future witness statements would be provided. In any event the Applicants gave clear and honest evidence.

### **The law**

8. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) order 2018 confirm that the property is an HMO if the following criteria apply-

- it is occupied by five or more persons;

- it is occupied by persons living in two or more separate households;
- it meets the standard test under section 254 (2) of the Act

9. In addition s.56 of the Housing Act 2004 enables a local authority to designate areas subject to additional licensing if there are a significant proportion of HMOs being managed ineffectively in the area in question. The additional licensing criteria in Tower Hamlets are described above.

10. Under section 41(1) of the Housing and Planning Act 2016 a tenant may apply to the First Tier Tribunal for a rent repayment order against a person who it is alleged has committed an offence. Section 43 of the Act permits the FTT to grant a rent repayment order if satisfied beyond reasonable doubt that a landlord has committed an offence under section 72 one of the Housing Act 2004 by failing to obtain an HMO licence. Section 44 of the Act permits the FTT to grant a Rent Repayment Order in respect of the rent paid by the tenant for a period not exceeding 12 months.

## **Determination**

11. There is no doubt that the Respondents are liable for a RRO as they should have had an HMO license during the relevant period when there were five households in occupation. Instead of coming to the hearing and explaining their position they sought to discredit the application without any factual basis. The Applicants gave evidence of the appalling conditions in the premises. In particular there was a persistent mouse and rat infestation which was not dealt with by the Respondents despite repeated reports. The Applicants had to leave the premises and stay in a hotel when the infestation got too bad,

12. The conduct of the Respondents including their attempt to discredit the claim; their failure to attend the hearing; their failure to carry out legal safety checks and the appalling state of the premises collectively mean that the Tribunal has no hesitation in awarding the maximum penalty in this case which is £8550.

## **Summary**

13. The Respondent are liable for a Rent Repayment Order of £8550 payable within 14 days.

**Judge Shepherd**

**17<sup>th</sup> March 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.