

Rakusen (Respondent) v Jepsen and others (Appellants)

Case ID: 2021/0188

Case summary

Issue

Can a Rent Repayment Order only be made against an immediate landlord or can a superior landlord also be liable?

Facts

The Respondent, Mr Rakusen, is the leaseholder of a flat on Finchley Road in North London. In May 2016 he granted a tenancy of the flat to Kensington Property Investment Group Ltd. Kensington then entered into agreements with the Appellants granting them each possession of one room of the flat for an aggregate fee of £2,297 per month.

It is accepted that by November 2018 the flat was a house in multiple occupation (or "HMO") and so required to be licenced under Part 2 of the Housing Act 2004. However, the flat was never licenced as an HMO.

In September 2019 the Appellants applied to the First-tier Tribunal for a Rent Repayment Order of £26,140 against Mr Rakusen pursuant to Section 41 of the Housing and Planning Act 2016. This was on the basis that he had committed the offence of being a person having control of or managing an HMO which was not licenced as required.

Mr Rakusen denies that he committed an offence and invited the First-tier Tribunal to strike out the Appellants' application. The strike out application was made on the basis that a Rent Repayment Order can only be made against the immediate landlord of the person making the application. The First-tier Tribunal refused to strike out the application, holding that Mr Rakusen was "a" landlord of the flat, albeit not "the" landlord of the Appellants. Mr Rakusen appealed to The Upper Tribunal with permission of the tribunal judge.

The Upper Tribunal dismissed Mr Rakusen's appeal, holding that that a Rent Repayment Order can be made against a superior landlord of an applicant. The Upper Tribunal judge granted permission to appeal to the Court of Appeal.

The Court of Appeal allowed Mr Rakusen's appeal, holding that a Rent Repayment Order could not be made against a superior landlord. The Appellants now appeal to the Supreme Court.

Judgment appealed

[\[2021\] EWCA Civ 1150](#)

Parties

Appellant(s)

Mikkel Jepsen and others

Respondent(s)

Martin Joseph Rakusen

Intervener

Safer Renting

Appeal

Justices

Lord Lloyd-Jones, Lord Briggs, Lord Kitchin, Lord Burrows, Lord Richards

Hearing start date

26 January 2023

Hearing finish date

26 January 2023

Watch hearing

26 January 2023

[Morning session](#)

[Afternoon session](#)