



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

**Case Reference** : **MAN/00CJ/HMF/2019/0016,23,26,31,32**

**Property** : **19 Chester Street,  
Newcastle Upon Tyne NE2 1AT**

**Applicants** : **Georgina McArdle, Amy Milburn,  
Laura Heron, Elizabeth Wentworth,  
and Emily Richardson**

**Respondent** : **Lacey Talbot**

**Type of Application** : **Rent Repayment Order**

**Tribunal Members** : **A M Davies, LLB  
J Jacobs, MRICS**

**Date of Determination** : **3 October 2019**

**Date of Decision** : **11 October 2019**

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**DECISION**

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## **Decision:**

1. The Respondent shall pay:
  - (a) to each of the Applicants repayment of rent in the sum of £360, and
  - (b) to Emily Richardson reimbursement of Tribunal fee in the sum of £100.

## **REASONS**

### **BACKGROUND**

1. The Respondent bought 19 Chester Street, Newcastle upon Tyne (the Property) as a home for herself, but was obliged to move temporarily to London.
2. From 1 August 2017 to mid-July 2018 the Applicants Georgina McArdle, Elizabeth Wentworth and Laura Heron were tenants of the Property. Amy Milburn and Emily Richardson were tenants during the same period, for approximately 10 months. During the Applicants' tenancy, the house was a House in Multiple Occupation (HMO).
3. The rent paid by each of the Applicants was £360 per month throughout the tenancy.
4. The Respondent had control or management of the HMO, which was unlicensed, and so committed an offence under section 72(1) of the Housing Act 2004.

### **THE LAW**

5. Section 41 of the Housing and Planning Act 2016 ("the Act") enables a tenant to apply to this Tribunal for an order for repayment of rent by a person who has committed an offence listed at section 40 of the Act, including the control or management of an unlicensed HMO. The Tribunal has a discretion whether to make a rent repayment order.
6. Section 44 of the Act sets out the basis on which any repayment of rent is to be calculated. The amount may not exceed the amount of rent paid in the period, not exceeding 12 months, during which the offence was being committed. In determining the amount, the Tribunal must "in particular" take into account the conduct of the landlord and the tenant, the financial circumstances of the landlord, and whether the landlord has been convicted of the offence. Other relevant circumstances may be taken into account.

### **STATEMENTS OF THE PARTIES**

7. The Applicants do not complain of the condition of the Property, which appears to have been well maintained. They do complain that the Respondent's mother, an estate agent, entered the Property without their knowledge on a number of occasions.

8. The Respondent says that she bought the Property for her own use, and that she has been living there since the Applicants' tenancy ended. She says that she was unaware of the obligation to apply for a licence for the HMO. The Tribunal accepts that she did not know that she should have had a licence.
9. Neither party produces any evidence as to whether a licence would have been granted if it had been applied for. However there was nothing relating to the condition of the Property that would have prevented or delayed the issue of an HMO licence.
10. The Respondent has produced evidence that the Property was left in a cluttered and damaged state when the Applicants vacated. She has also told the Tribunal that she is unemployed. She has substantial debts. She has no present intention of letting property in the future and there is therefore little danger that the offence will be repeated.

#### FINDINGS

11. The Tribunal finds that an offence was committed. The Respondent has not been convicted. She was unaware of the need to apply for an HMO licence. The Applicants have not been prejudiced in any way by her failure to do so. The Respondent's financial situation is precarious. She is extremely unlikely to offend again.
12. For these reasons, the rent repayment order is limited to one month's rent per Applicant, and the Respondent is ordered to reimburse Emily Richardson £100 for the application fee paid to the Tribunal.

Tribunal Judge AM Davies  
11 October 2019