



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

Case Reference : CHI/29UC/HMF/2020/0035

Property : 15 North Holmes Road, Canterbury, Kent CT1
1QN

Applicant : Anna Zoe Leibel

Representative : Mr James Sandham, counsel, instructed by
Setfords LLP

Respondent : Mr Julian Baird

Representative : At second day Mr D Taylor, Landlords Defence

Type of Application : Application for a rent repayment order by
Tenant
Sections 40, 41, 42, 43 & 45 of the Housing
and Planning Act 2016

Tribunal Member : Judge D R Whitney
Mr B Bourne FRICS
Ms J Dalal

Date of hearing : 23rd March and 19th April 2021 by CVP

Date of Determination : 4th May 2021

**DETERMINATION OF RENT REPAYMENT APPLICATION AND
COSTS APPLICATION PURSUANT TO RULE 13 OF THE TRIBUNAL
RULES**

Background

1. On 16th November 2020 the Tribunal received an application under section 41 of the Housing and Planning Act 2016 (the Act) from the Applicant tenant for a rent repayment order (RRO) against the Respondent landlord.
2. Directions were issued on 16th December 2020 which were varied on 18th January 2021. These later directions included the matter being listed for a hearing on 23rd March 2021 by CVP. The directions urged the Respondent at paragraph 5 to take independent legal advice.
3. At the first day of the hearing the Respondent attended in person. The Applicant attended both days and was represented by counsel Mr Sandham and her solicitor Mr Rae of Setfords LLP was in attendance. The first day was also attended by Mr Al-Shabani, Dr Leibel and for part of the day Mr Basaran. At the second day of the hearing Mr Baird attended and was represented by Mr Taylor of Landlord Defence.
4. The day prior to the hearing Mr Baird made an application by email to adjourn on the following grounds: “Haven’t had opportunity to seek legal representation. Haven’t received all paperwork. Haven’t got access to correct equipment for video link”. This application was refused although the Tribunal did provide the opportunity that Mr Baird could renew the application at the start of the hearing.
5. The Applicant’s representative had on 11th March 2021 prior to the hearing made application to adduce additional witness evidence and disclosure. The Tribunal had indicated to the parties that it would determine this application at the start of the hearing.
6. Also prior to the first days hearing the Applicant’s representative notified the Tribunal and the Respondent that they would be making an application for costs pursuant to Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Applicant included a statement of costs and brief grounds upon which they would seek to rely.
7. Within this decision references in brackets are to pages within the bundle produced by the Tribunal.
8. It should be noted that the Respondent looked to actively dispute the claims made by the Applicant. He denied that he was running an unlicensed House in Multiple Occupation alleging that there were only 4 tenants in occupation.

The Law

9. The relevant law is contained within the Housing and Planning Act 2016 (“the Act”). The relevant sections are set out in Annex A.

Hearing

10. The below sets out the salient and important parts of the two days hearing of this matter. It is not a transcript of the hearing but focusses on those matters which the Tribunal has determined have been most relevant in reaching its determination.
11. At the commencement of the hearing Mr Baird confirmed he did not wish to renew his application to adjourn the hearing. He explained to the Tribunal he was a “technophobe” and was not familiar with holding video calls.
12. The Tribunal explained to Mr Sandham it had not read the additional witness statements which had been submitted. One from Mr Al- Shabani and two from Mr Basaran.
13. Mr Sandham explained that it had been necessary to obtain further witness evidence from these two gentlemen as Mr Baird in his statements of case [140-177] suggested that there had only been 4 tenants living at 15 North Holmes Road, Canterbury including Ms Leibel. Mr Baird relied on a tenancy agreement [157-174] which purported to name only 4 tenants. Mr Sandham stated that it was his case that this was not a genuine document and is a forgery.
14. Mr Sandham relied on a witness statement of Mr Rae of his instructing solicitors which exhibited correspondence inviting the Respondent to disclose the original tenancy agreement and also copies of his bank statements to show the payments he received. Mr Baird had been provided in advance with copies of the witness statements.
15. Prior to hearing from Mr Baird the Tribunal explained to Mr Baird that these were serious allegations being made against him. The Tribunal expected him to provide honest and truthful information.
16. Mr Baird explained he does not conduct business by email. He is a painter and decorator. He has 15 properties and works on various projects having to meet lenders deadlines. He confirmed he had seen the witness statements. As to the tenancy he scans that in and has an electronic file for each property he owns. The original will have been archived.
17. Mr Baird stated he rented that property to 4 individuals and finds it hard to believe they do not have a copy of the agreement. He explained he arranged everything via phone and met the tenants at the Property for them to sign the agreement. He went over everything with them, answered all their queries and they all signed the agreement, and a copy of that agreement was left at the property throughout the duration of their tenancy, in what was called a “handbook”.
18. The Tribunal adjourned to consider the application for 20 minutes.
19. Upon resumption of the hearing the Tribunal confirmed that it would allow the additional witness statements to be admitted and for the witnesses to give evidence. Mr Baird had prior notice and sight of the statements and these

went to the heart of the issue in the case. The Tribunal did not at this point make any order for further disclosure.

20. The Tribunal explained it had looked at 15 North Holmes Road on Right Move which appeared to have property particulars suggesting it was a 5 bedroom house. Mr Baird stated these were not the correct property particulars for the house.
21. Mr Sandham called Mr Basaran. Mr Basaran had given two witness statements (neither in the bundle). He confirmed the statements were true and accurate.
22. Mr Baird then cross-examined Mr Basaran. Mr Basaran said he was not represented by Mr Rae. He had made no arrangement with Mr Rae to represent him in his own claim for a rent repayment order against Mr Baird. Mr Basaran said he could not comment whether or not he will pursue his own rent repayment order.
23. Mr Basaran confirmed the solicitor for the Applicant drafted the statement using information he provided. Mr Basaran confirmed that the statement was correct. On questioning he confirmed he received a 2:1 degree in Biochemistry. He felt he was intelligent but Mr Rae drafted the statement as he understood the format the Tribunal required. Mr Basaran stated he had no experience in anything law related.
24. Mr Basaran said he could not remember what happened to the tenancy agreements, after they signed them. He thought that Mr Baird took most of the agreements away with him. He had not thought he would need to keep the tenancy agreement as he was not expecting any legal proceedings. He paid his rent as required and he did not believe the agreement produced by Mr Baird was the one he had signed.
25. Mr Basaran said he could not remember what was on the pages he signed. He did however remember signing various agreements. He explained that he and his fellow housemates all went to 15 North Holmes Road. Those in attendance were himself, the Applicant, James Onegbu, Calvin Lu and Amr Al Shabani. They met Julian (the Respondent) and he went through the document with them and everyone initialled each and every page and then signed the back page and he recalled his name had been on the same.
26. Mr Basaran stated he had not been offered money by the Applicant to give evidence.
27. Mr Basaran explained he had been a tenant for the whole year. He explained he had returned to his home address at about the time of the first lockdown but continued paying rent until the end of the tenancy. He explained he moved in towards the end of August 2019 not long before his course began. He had returned to his home in Potters Bar at about the time of the first lockdown as his mother was worried about him due to his suffering from asthma.

28. Mr Basaran explained he had a key for the Property. He could not recall whether Mr Baird gave him the key. He had left the key with his housemates who he believed had returned it to Mr Baird. He confirmed he was not present on 26th June 2020 when the Property was returned to Mr Baird.
29. Mr Basaran denied being a replacement for one of the tenants dropping out. He was categoric he had been a tenant from the start paying rent throughout the whole of the tenancy. He explained his mother paid the rent on his behalf.
30. Mr Basaran stated that as a student the tenancy agreement was not a key document for him. If he had a copy he has no idea what he did with it.
31. Mr Basaran explained that sadly Calvin Lu had passed away recently. Mr Onegbu was no longer on good terms with the Applicant. He remained friendly with everyone but was no longer living in Canterbury.
32. On questioning by the Tribunal, Mr Basaran explained that the Applicant or Amr found the house online and organised everything for the others. He just attended for the signing and his Mother had acted as Guarantor for Mr Baird.
33. On re-examination Mr Basaran explained that his bedroom was on the first floor above the front door. Next to his room at the front was Anna's. James' room was immediately at the top of the stairs overlooking the back and Calvin's was on the side with a window overlooking a passage. Amr was on the ground floor at the front. On the ground floor was also a kitchen and living room.
34. Mr Basaran confirmed he could have returned to the house after he left at the beginning of the first lockdown but did not do so as his course finished. He paid his rent up until the end of the tenancy agreement being until June/July 2020.
35. After Mr Basaran's evidence the tribunal adjourned for one hour for lunch.
36. Upon resumption Mr Baird had emailed to the Tribunal a scan of the Mann & Co property particulars from when he purchased the Property. Mr Sandham was content for these to be introduced as evidence.
37. Mr Sandham called Mr Amr Al Shabani. He confirmed his witness statement (not in the bundle) was true and accurate.
38. He was cross examined by Mr Baird.
39. Mr Al Shabani stated that he met Mr Baird on 1st August 2019 when he moved in. He had paid 1/2 rent for July. He stated that Mr Baird gave him a booklet with all the information about the house, certificates and a copy of the tenancy. This was what was known as the "housebook" and Mr Baird made clear it was to remain in the house. On moving in Mr Baird took a video of the condition of the house.

40. Mr Al Shabani accepted he had signed the tenancy agreement but had no issues whilst in the house so did not ask where his copy was. He knew there was a copy in the housebook which remained in the house.
41. He remembered Anna lost her key and she used the tenancy to get a replacement key. Mr Al Shabani stated that Mr Baird took the housebook away at the end of the tenancy.
42. Mr Al Shabani stated he had a lot of contact with Mr Baird throughout the tenancy. Mr Baird would telephone, WhatsApp or turn up at the property.
43. Mr Al Shabani agreed that Mr Baird helped him move his belongings into the property using Mr Baird's van.
44. Mr Al Shabani stated the tenants had not been completely happy. Anna's room had no curtains throughout the whole of the tenancy. Also, Mr Baird would say he was coming one day and then turn up on a different day saying he had been busy. Mr Al Shabani stated that Mr Baird was aware the tenants had issues with him as they had discussed this.
45. He referred to Mr Baird coming into the property unannounced. He described Mr Baird as very snoopy. Mr Al Shabani said they did complain but Mr Baird referred to them in the witnesses' words as petty children.
46. He explained that on occasion Mr Baird simply turned up to check the house. He would make the tenants clean and tidy up. On one occasion he did turn up and said the house was in an atrocious state. He said he would get a cleaner and that he would pay for but if it happened again, we would have to pay. He accepted the house was cleaned at the landlord's expense.
47. Mr Al Shabani accepted the signature on the agreement looked like his. The agreement looks genuine, but it is missing Tom's signature. Mr Al Shabani explained that all the tenants went to the Property to sign the agreement. The 5 of them sat on the sofa and Mr Baird remained standing. Multiple agreements were signed and one left in the housebook. He recalled it took about 2 hours to do the signing and he found this weird. Mr Baird told stories about issues and made clear no one should prostitute themselves which is what Mr Baird believed lots of students did.
48. Mr Al Shabani explained he had paid for a broken fence that Mr Baird arranged a repair for. He accepted during lockdown that the 4 remaining in the house were loud at times and damaged the fence. He was adamant it was a 5-bedroom house with 5 tenants.
49. Mr Al Shabani explained they paid rent with a bills inclusive package. He had never seen the letter [152] from Southern Electric addressed to James. James was not the bill payer and James would not have wanted the bills in his name.
50. Mr Al Shabani explained he had been shown Mr Baird's statement of case by Anna. He felt it was utter nonsense and disagreed with all, it was full of lies.

51. Mr Al Shabani explained he and Anna had gone round to 15 North Holmes Road to try and collect her suitcase as suggested by Mr Baird. No one was living there and when they spoke to the neighbours they told them no one had been living there all year. He explained James still had his key for 15 North Holmes Road but neither he nor Anna had access to it.
52. Mr Al Shabani stated he paid all the rent which he was required to pay which included the internet for a charge of £10. He accepted he had been a little late on occasion but the full amount was paid. He accepted when they left the Property was not clean. He stated that Mr Baird tried to get them to clean the house but they said he should get a cleaner and they would pay. He had never presented a bill asking them to pay. Mr Baird in his opinion was peeved by this.
53. On questioning by the Tribunal Mr Al Shabani agreed the property particulars scanned in and sent by Mr Baird looked like the Property.
54. Mr Sandham then called Miss Leibel. She relied on her statement [131- 135]. She confirmed she read it that morning and the same was true and accurate save in paragraph 13 she stated she did not hand her key back to Mr Baird as she had lost it.
55. Mr Baird cross examined Miss Leibel.
56. Miss Leibel explained she found the property on the internet on a site for student lettings that had an orange background but could not remember the name of the same.
57. She explained she was the second person to move in after Amr. Amr sent her a video of the condition and she moved in sometime in August.
58. Miss Leibel confirmed she attended at the signing with the four other tenants. She said she found it a little odd but Mr Baird made sense in what he said. It was subsequently that issues arose with Mr Baird.
59. Miss Leibel remembered everything for organising the tenancy had been sent by email by Mr Baird. She stated that the housebook remained in the house with a copy of the tenancy agreement and Mr Baird took all other copies away. Miss Leibel stated that after they left she asked for a copy of the tenancy and Mr Baird refused to give the same.
60. She agreed the term of the tenancy was 1st July 2019 to 26 June 2020. She agreed it was her signature on the agreement produced by Mr Baird but it did not include Tom's name which was on the agreement they all signed. She was pretty sure the initials were hers. She recalled signing it at the house and the previous tenants were still in occupation, she thought it was a date in May 2019. They met Mr Baird at the property with all 5 tenants present and all 5 signed. Mr Baird left one copy in the house but did not give the tenants a copy. She felt she was led to believe that they could not take the house copy.

61. Miss Leibel confirmed the rent was £468 per month each with £10 for tv licence and internet. Miss Leibel was adamant Tom was always a tenant and not a replacement. She stated she could remember who she was living with.
62. She confirmed her father paid the rent on her behalf.
63. She confirmed they moved out on 26th June 2020 as per Mr Baird's request. It was very rushed as they had thought they could stay until the end of the month. Tom had moved out earlier due to his asthma. She recalled telling Mr Baird she had lost her keys and he rolled his eyes.
64. Miss Leibel stated that a friend of her fathers who is a lawyer helped initially. He told her what she could claim although all she really wanted was her suitcase back which was inadvertently left at 15 North Holmes Road when she moved out and is subject to separate County Court proceedings.
65. Mr Baird tried to ask questions about the witness taking drugs but the Tribunal said such questions were not relevant and not appropriate to ask. Miss Leibel did confirm she had not taken drugs whilst in the property.
66. Mr Sandham then called Dr Leibel. He confirmed his statement was true and accurate [136 & 137].
67. Mr Baird cross examined.
68. Dr Leibel confirmed the signature on the tenancy looked like his daughters. He confirmed he had no contact during the tenancy although spoke to Mr Baird after it ended.
69. This concluded the oral evidence of the Applicant.
70. The Tribunal issued further oral directions at the conclusion of the first day. These were that the hearing would be adjourned part heard until 19th April 2021 when the hearing would resume by CVP at 10am. Mr Baird was directed to deliver up to the Tribunal office the original of the tenancy he relied upon and to send copies of his Santander bank account for the period of the tenancy agreement showing all payments received in. He was to do this by 14th April 2021 at 4pm. He was also directed that he could deliver up originals of any other documents upon which he relied by 14th April 2021 at 4pm given other documents were said to be forgeries by the Applicant.
71. The Tribunal reminded Mr Baird he could take legal advice during the intervening period given the serious allegations being made against him.
72. The hearing resumed on 19th April 2021. Miss Leibel attended represented again by Mr Sandham and with Mr Rae in attendance. Mr Baird attended represented by Mr Taylor of Landlord Defence.
73. Mr Taylor explained that he had emailed in a copy of the tenancy agreement the Respondent relied upon and redacted bank statements. He understood

this complied with the directions. He did not realise that an original of the tenancy agreement had to be sent into the Tribunal.

74. Mr Taylor explained his client could not supply the original as it was his client's practice to scan in the tenancy agreement and then destroy the original in a way similar to that of various insurance companies. The Judge highlighted that at the previous hearing Mr Baird had told the Tribunal the original was archived by him.
75. Mr Sandham confirmed he had nothing further to add to his case.
76. Mr Taylor stated the bank statements showed payments from 5 people. He stated that rent was paid by 5 people and his client is now aware he was running the property as an unlicensed house in multiple occupation.
77. The Judge queried with Mr Taylor whether his client was now accepting that he committed the offence alleged of running an HMO without a licence and that a rent repayment order should follow? Mr Taylor agreed this was the case. His client no longer relied upon the statement he had filed and was saying that this was a case of "no contest". Mr Taylor was not tendering any evidence.
78. The Judge explained to Mr Taylor that Mr Sandham was making serious allegations against his client in light of the documents presented to the Tribunal. The Judge explained it was anticipated that Mr Sandham would invite the Tribunal to make findings on these points. The Tribunal adjourned for Mr Taylor to take instructions from his client whether he wished to give any evidence.
79. Upon resumption of the hearing Mr Taylor stated his client withdraws all the evidence including all statements and documents filed save for the bank statements. He stated he was submitting his client agreed that a rent repayment order should be made for the sum claimed of £5382.
80. The Judge asked Mr Taylor to confirm that his client was admitting the criminal offence and that the Tribunal should make a rent repayment order in the sum of £5382 being the sum requested? Mr Taylor confirmed this was the case and Mr Baird was sitting alongside him and made no comment.
81. The Tribunal then canvassed with the parties hearing submissions orally on the Applicant's application for costs pursuant to Rule 13; an updated costs schedule having being served on the Respondent.
82. Mr Taylor was content to deal with this today. Mr Sandham requested some time to marshal his arguments but was content to make them on the hearing date. The Tribunal adjourned shortly before 11am until 12 noon for the parties to prepare to make submissions on costs. The Tribunal referred both parties to Willow Court Management Company (1985) Ltd v Alexander [2016] UKUT 290 (LC) ("Willow Court").

83. The hearing resumed at 12.10pm. Mr Taylor had sent an email to the Tribunal dealing with costs but he and Mr Baird returned to the hearing.
84. Mr Sandham submitted the Tribunal has two basis' upon which to make costs orders Section 29(4) of the Courts and Tribunals Act and Rule 13 The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. He was not contending that an Order should be made under Section 29. He relied upon Rule 13.
85. Mr Sandham said the test was set out in Willow Court. It was an objective standard and whether the man on the Clapham Omnibus would find that the Respondent had acted unreasonably in defending or conducting the proceedings. In making such a finding a Tribunal would have regard to a range of views. If the conduct was unreasonable costs do not automatically follow but it is for the Tribunal to determine whether they should follow the event. There is no need for a causal connection. It is for the Tribunal to take a broad brush approach and apply its worldly spectacles. The amount of the costs which can be ordered is unlimited and the Tribunal can determine these on a standard or indemnity basis. Further the Applicant seeks the fees of £300.
86. In his submission there is no grey area on the two accounts. One account is palpably false and in his submission Mr Baird could not have an honest belief in his case. The only issue was whether or not there were 4 or 5 tenants. Mr Baird now accepts there were 5 tenants. Mr Baird proceeded with a full days Hearing defending his case, cross examining witnesses and went to great lengths to attack Miss Leibel. Separately there is an issue over Miss Leibel's suitcase.
87. In Mr Sandham's submission Mr Baird has gone to extraordinary lengths forging a tenancy, giving false evidence and then latterly withdrawing all of the same. Mr Baird pursued matters with a ferocity and nastiness.
88. Mr Baird lied from the beginning of the tenancy. Mr Baird owns 50 properties and purchased this one in 2009. He has according to the bank statements about £160,000 in that account at any time. He had a standard procedure of tenants paying £468 plus bills. Mr Baird was adamant it was not a 5 bedroom house and yet now accepts it was. He was lying.
89. Mr Sandham submitted that prior to 2018 an HMO had to be 3 storeys. This property was only two storeys and Mr Baird had structured his portfolio around these parameters. The list of HMOs showed that numbers 3, 5, 6, 13, 16 and 26 North Holmes Road were all licenced HMOs.
90. In 2019 Mr Baird needed an HMO if he wanted 5 or more persons in the Property. He could limit occupation to 4 persons but would have to accept lower rent. Mr Baird pretended the house was only 4 bedrooms and everything else makes sense. Five people entered into the contract and sat in the lounge and signed the tenancy agreement paying £468 inclusive of bills. Mr Baird in his statement [143] has to change the amount to £510 inclusive of bills to make the maths work different from his email [77].

91. Mr Sandham submits Mr Baird knew he had to conceal that he had 5 tenants as he knew it was an offence hence why despite getting 6 copies of the agreement signed he took them off everyone, save for one he left in the housebook, which he made all believe must remain in the house by asserting ownership over the same. These proceedings demonstrate it was a dishonest scheme.
92. It was plain Mr Basaran had paid rent from July despite supposedly his name not being on the agreement. Mr Baird had to alter the rental on agreement he produced, remove Tom Basaran's name, signature and initials. On various pages of the tenancy [157-174] not all of the tenants initials can be seen despite Mr Baird saying he required each and every one to initial every page and all three tenants who gave evidence saying this is what they did. In his submission the document is a hopeless forgery. Further at clause 2.3.1 [161] he has failed to remove reference to the rent being exclusive as the clause says the rent is inclusive of all utilities. This is a clumsy mistake.
93. Matters were structured to provide financial gain for the Respondent. He got desperate in these proceedings and embellished his evidence. He knew there were 5 tenants paying rent and that he needed a licence and he knew he was lying in these proceedings. He knew the tenants did not have a copy of the agreement as he had taken it off them. His conduct was particularly egregious.
94. The tampered document was produced for these proceedings. He ran a positive case that he was not in breach of the requirement to have an HMO licence to defeat the claim and mislead the Tribunal. The tenancy was created to manipulate the proceedings.
95. The Applicant's solicitor suggested this from the outset yet Mr Baird did not back down until the second day of the hearing without any prior notification or warning that this was the course he was adopting. Mr Sandham submitted the schedule of costs must be looked at in light of the fact the Applicant was required to show the tenancy agreement produced and relied upon was a forgery and the difficulties in proving such a claim. Prior to the hearing commencing the Applicants solicitor requested sight of the original tenancy agreement and Mr Baird's bank statements which he did not provide.
96. In Mr Sandham's submission this conduct was abusive. He turned up at today's hearing after the costs had been incurred and then gives up. In his statement [140, 143 and 175] he attacks the Applicant and now withdraws the allegations. He makes unsubstantiated allegations of drug abuse in front of her Father. The statement is simply designed to be scurrilous. He knew adverse findings in this Tribunal go on a public document and affect the Applicant's character. In Mr Sandham's submission Mr Baird never had a defence of merit, he is a Dickensian slum landlord who bullied, threatened and was vexatious, all designed to harass. It was a war of attrition designed to pressure the Applicant to give up.

97. In Mr Sandham's submission this was the most disgraceful example of conduct and Miss Leibel should not be out of pocket for a single penny and she should be indemnified as to her costs.
98. At the close of Mr Sandham's submission the Tribunal adjourned for lunch and to allow Mr Taylor to prepare his submissions.
99. On resumption Mr Taylor asserted there was no proof of forgery. In his submission until you can show the fake against the original there is no proof. He suggested it makes no sense for Mr Baird to go to that trouble for the sums in dispute. He is a landlord with a rent roll of £20-25,000 per month. It is ludicrous to think he would create a forgery.
100. Mr Taylor submitted Mr Baird had attended various meetings held by Canterbury Council about licensing. He had made an application for one of his other properties, 9 Pretoria Road and the licence was granted about one year later.
101. Mr Baird does not have 50 properties but 15 of which he owns 10 and 5 are let for others. He has about 50 tenants. Mr Baird is aware of the laws in respect of houses in multiple occupation. He submitted the Council had taken no action.
102. In his submission the lawyers are the biggest winners. They managed to take something simple and make the matter complicated. He suggested Mr Baird had not paid attention to the detail that another person beyond the 4 on the agreement were paying rent.
103. The Judge reminded Mr Taylor he had on behalf of his client already admitted the offence, which had been committed. Mr Taylor accepted the offence was committed but suggested it was not reasonable to incur costs of about £22,000 for a claim with a maximum value of £5832.
104. He suggested that a lower cost could have been incurred for the claim. In particular he challenged the solicitors hourly rate and the brief fees of counsel. He submitted that the lawyers by accusing the Respondent of forgery were using this as an excuse to recover their inflated costs. Mr Baird had been unrepresented. He felt if a cost must be awarded, then something like £1800 would be reasonable.
105. He suggested the correspondence from the Applicant's solicitor was aggressive and not acceptable. The Property had been left in a mess and Mr Baird had incurred cleaning costs twice, which had not been charged to the tenants, and he had not taken a deposit. The amounts claimed are extreme. He took advice, came to the hearing and now wants to move forward. In his view any claim in relation to forgery should be dropped.
106. In reply Mr Sandham made the point that he is a senior junior counsel but was instructed because of the forgery allegation and the seriousness of the same. It had been made clear to Mr Baird that costs would be sought from him.

Determination

107. The Tribunal considered in reaching its determination all of the evidence produced and skeleton arguments. Whilst Mr Baird withdrew all his evidence save for the bank statements at the second day of the hearing the Tribunal considered those in determining the costs application but not in connection with the Rent Repayment Order.

Rent Repayment Order

108. The Tribunal notes that Mr Baird admitted that he was committing the offence of running a house in multiple occupation pursuant to Section 72 of the Housing Act 2004. Whilst the admission was made on advice, the Tribunal did consider whether it was satisfied an offence was committed. The Tribunal heard evidence from three tenants. All referred to there being 5 tenants in occupation. Mr Baird did produce bank statements showing he received payments from all five persons whom the Applicant alleged were tenants and Mr Baird did not challenge this.
109. Taking account of the evidence heard and the admission made by Mr Baird we are satisfied beyond reasonable doubt that the offence of running a house in multiple occupation without a valid licence from the local authority was being committed for the whole of the tenancy period as alleged by the Applicant.
110. The Tribunal is satisfied that such offence entitles the Applicant to request a rent repayment order pursuant to section 41 of the Housing and Planning Act 2016. The Application is dated 16th November 2020 and so was made within 12 months of the offence.
111. The Tribunal considers in all of the circumstances of this case that a Rent Repayment Order should be made.
112. The Tribunal is satisfied on the evidence of the Applicant that during the period of the offence she paid or caused to be paid a sum totalling £5,382. The Respondent agrees this figure and in submissions from Mr Taylor agreed a rent repayment order should be made in such sum. Mr Taylor did not suggest any amounts should be deducted.
113. The Applicant seeks recovery of the full amount paid by her or on her behalf. The Respondent agrees this is the appropriate sum for any Order. No evidence or submissions have been put forward suggesting a reduction in the amount. The Respondent had in cross examination raised various matters which it might be said could lead to a reduction in any award. However, the Tribunal is satisfied that a rent repayment order for the full amount paid by the Applicant of £5,382 should be made in all the circumstances of this case.
114. Turning to the Applicant's application for reimbursement of the fees paid of £300 the Tribunal agrees to make such an order. The Applicant has been wholly successful in her application and it is just and equitable for these to be added to the sums to be paid to the Applicant.

Costs Decision

115. The Applicants have produced a costs schedule totalling £21,912 being solicitors costs of £7860 plus vat, counsels fees of £10,000 plus vat and what are called court fees of £400.
116. The Tribunal has already ordered that the Tribunal fees paid of £300 should be reimbursed by the Respondent so those do not fall to be considered.
117. We have considered carefully all of the arguments made, the documents within the bundle and the email received from Mr Taylor on the 19th April 2021. The arguments are set out above. Whilst Mr Taylor indicated Mr Baird wished to withdraw all his evidence save for the bank statements in considering this application for costs and determining the same we have regard to all such evidence and documents.
118. The Tribunal finds that Mr Baird did deliberately obfuscate matters and in signing the statement of truth [148] on his defence dated 19th February 2021 he deliberately misled the Tribunal. We are satisfied he knew that at all times there were 5 tenants at 15 North Holmes Road.
119. It was apparent from his cross examination of the witnesses that Mr Baird knew all. Given supposedly Mr Basaran was not his tenant this seems implausible, yet he referred to him as “Tom” and was clearly familiar with him. This is but one example.
120. It is suggested that the tenancy agreement produced and relied upon by Mr Baird is a forgery. We find that all 5 tenants being the Applicant, Mr Basaran, Mr Al Shabani, Mr Lu and Mr Onuegbu did meet with Mr Baird at 15 North Homes Road at some date prior to the commencement of the tenancy and all 6 persons present signed and initialled a document. This was not the document produced by Mr Baird. Mr Baird has deliberately produced a document which, placing it in the most generous light for Mr Baird, is not the document signed at that meeting and which the tenants believed was the tenancy agreement they were entering into. The production of this document was a calculated decision by Mr Baird in an attempt to mislead the Tribunal.
121. It would now appear that there is nothing within Mr Baird’s statement which can be said to be true. This is the evidence which coincidentally was given by Mr Al Shabani.
122. Mr Taylor suggests that once represented Mr Baird realised he had been letting to 5 tenants and that he should effectively make a clean breast of matters and did so at this late stage. Again we find this statement to be disingenuous. Mr Taylor told us that Mr Baird had attended on a course run by Canterbury Council explaining the licensing requirements. Further Mr Baird holds a licence. Mr Taylor looks to suggest that despite admitting the offence Mr Baird had not agreed 5 tenants or understood there would be 5

tenants and simply just accepted the money. That this was an oversight by a busy man.

123. We do not find that credible. The evidence of the three tenants who attended was consistent and clear. All three gave evidence of how Mr Baird spent some time taking them through the tenancy agreement. We heard how he would turn up at the Property and check the property was clean and chivvy the tenants into cleaning. Mr Baird via Mr Taylor admitted the offence, Mr Taylor was asked by the Judge if Mr Baird understood that he was admitting to the criminal offence and Mr Taylor confirmed he understood this and the implications. Mr Taylor and Mr Baird were in the same room, sat next to each other and at no point did Mr Baird indicate he disagreed. In any event given the evidence we as a Tribunal heard we were satisfied that at all material times there were 5 tenants at the Property.
124. We note the original directions advised the Respondent to take advice. We have no way of knowing what advice if any the Respondent took. On his own case he is an experienced landlord with multiple properties. On his own submissions he owns 10 properties and manages a further 5. Mr Taylor stated he has about 50 tenants. He is plainly an experienced landlord and we find he choose to not be represented prior to the second days hearing.
125. We find Mr Baird's actions were deliberate. Mr Taylor suggests there is no motivation for him to behave in this fashion. It is not for us to speculate upon his motivation save to say we are satisfied he did set out to deceive the Applicant and the Tribunal. His response to the claim was confrontational and bullying, he did make scurrilous accusations about the Applicant which we are satisfied were made in an attempt to persuade her to withdraw her claim.
126. Mr Baird has treated the Tribunal with contempt. If further examples are required Mr Baird sought a late adjournment. As part of this he suggested he could not conduct a video call. On the first day of the hearing he described himself as a technophobe. Yet as the hearing went on we heard, and it is not challenged, how he communicated by email and WhatsApp with the tenants, how he would scan in tenancy agreements to create electronic files before archiving original documents. Further his banking was conducted online with an account which was accessed online only. He told the Tribunal that the original tenancy agreement was scanned and archived. Mr Taylor then told the Tribunal on the second day of the Hearing that the tenancy agreement had been scanned and destroyed, similar to insurance companies. Plainly Mr Baird is not the technophobe he suggested. We find that this was yet further lies and deceit on the part of the Respondent.
127. Mr Baird has shown no contrition. He cross examined all three witnesses rigorously. We note that even having taken advice (and the Tribunal were notified on 12th April 2019 that Mr Taylor was now representing Mr Baird) no indication was given to the Applicant or the Tribunal that Mr Baird was no longer contesting the case. In our judgment a reasonable person would have done so, we find Mr Baird did so hoping beyond hope the case may not proceed.

128. Mr Taylor was instructed to make submission which offered no apology and tried to paint Mr Baird still as the wronged party. A landlord who had made a mistake and was now being penalised. Mr Taylor looked to criticize the solicitor and counsel for the Applicant. He suggested they set out to paint his client in a poor light simply so they would be able to recover costs from him. He suggested the costs claimed were unreasonable. He suggested Mr Rae's hourly rate of £200 per hour was unreasonable and an hourly rate of £50 would be reasonable. He suggested there was no need for representation in the way it was and that the Applicant's representatives had pursued their case unnecessarily and aggressively.
129. This Tribunal does not accept any part of that submission.
130. We find the Applicants and their representatives acted properly throughout. Mr Sandham explained that he, as a senior junior counsel, had been instructed because of the serious nature of the allegations that he was making against Mr Baird. This is entirely reasonable. Prior to the hearing commencing the solicitors had asked for various documents to be produced and disclosed to them including the bank statements. Mr Baird had refused and yet when disclosed these did prove the veracity of the Applicants case.
131. We comment that an hourly rate of £200 per hour for an experienced solicitor such as Mr Rae is wholly reasonable. Likewise it was reasonable to instruct experienced counsel to present the case at both days hearings, given the seriousness of fraud in this case. If perhaps some indication had been given in advance of the second day, or even if the Respondent had admitted running an HMO on the first day of the hearing then costs may have been saved but it was the Respondent who choose not to say how he was changing his case until the second days hearing had commenced.
132. Taking all the matters referred to above we find that the conduct of the Respondent in conducting these proceedings was unreasonable. We agree with Mr Sandham that the lies and deceit practised by the Respondent is some of the most serious that this Tribunal has seen.
133. We are satisfied that an award for costs should be made in the Applicant's favour. We find such award should be on an indemnity basis to reflect the serious nature of the findings we make as to the unreasonable conduct of the Respondent. Whilst we do not have to find a direct causal link we do record that much of the costs have been incurred purely because of the lies and deceit practised by the Respondent, in pursuing this case for two days.
134. We considered the schedule. The Respondent challenged the hourly rate of the solicitor and counsels' fees generally. We have already found these to be reasonable and so we determine that the Respondent should pay £21,512 being the full amount of the solicitors and counsels fees claimed.

Conclusion

135. The Tribunal makes a Rent Repayment Order in favour of the Applicant that within 14 days of this determination the Respondent should pay a sum of £5,382 to the Applicant.
136. Further the Tribunal orders that within 14 days of this determination the Respondent should pay to the Applicant £300 as reimbursement of fees paid by the Applicant to the Tribunal.
137. The Tribunal finds that the Respondent should pay the Applicants costs pursuant to Rule 13 of the Tribunal Rules assessed in the sum of £21,512 within 14 days of this decision.
138. The Tribunal will draw this decision to the attention of the Regional Judge who may consider if further action should be taken against the Respondent.

RIGHTS OF APPEAL

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 rpsouthern@justice.gov.uk being the Regional office which has been dealing with the case.
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