



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY) AND IN
THE COUNTY COURT AT ROMFORD
SITTING AT 10 ALFRED PLACE, WC1E
7LR**

Case reference : **LON/00AH/HMG/2020/0016**

**HMCTS code
(paper)** : **P: PAPERREMOTE**

Property : **3 Coombe Court, St Peters Road,
Croydon CR0 1HH**

Applicant : **(1) Ms Ena Luz Arias Alvarado (2) Mr
Samuel Thomson**

Representative : **Express Solicitors**

Respondent : **Mrs Afsaneh Askar-Oladi-Chiang**

Representative : **In person**

Type of application : **Rent repayment order**

Tribunal members : **Judge Tagliavini
Mr M Cairns MCIEH**

Venue : **10 Alfred Place, London WC1E 7LR
P: Paper Remote**

Date of decision : **6 January 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote paper hearing which has been consented to by the parties. The form of remote hearing was **P: PAPERREMOTE**. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a paper hearing. The documents that the tribunal was referred to are in 4 bundles from the parties the contents of which the tribunal has considered. The order made is described at the end of these reasons.

The tribunal's summary decision

- (1) The respondent is to pay to each applicant the sum of £3,062.50. in respect of a rent repayment order totalling £6,125.00 for the period 30 November 2018 to 30 June 2019.

The application

1. These are two consolidated applications made by the applicants and former assured shorthold tenants of the subject premises a 1 bedroom flat at 3 Coombe Court, St Peters Road, Croydon CRO 1HH ('the premises) seeking a rent repayment order from the respondent landlord due to her failure to obtain a licence in accordance with the selective licensing provisions of the relevant local authority, the London Borough of Croydon and therefore in breach of section 95(1) of the Housing Act 2004.

The background

2. The applicants were granted a 12 months assured shorthold tenancy of the subject premises with effect from 30 November 2018 at a rent of £875 per calendar month. The tenancy was surrendered on 29 June 2019 with the agreement of the respondent.

The applicants' case

3. The tribunal was provided with a bundle of documents from the applicants and a separate signed supplemental witness statement dated 1 December 2020 from the first applicant. A signed witness statement dated 19 October 2020 from the first applicant was provided to the tribunal as well as a signed witness statement from the second applicant dated 21 October 2020. A calculation of rent paid by the applicants for the period 30 November 2018 to 29 June 2019 totalling £6,125 was also provided to the tribunal together with proof of the rent paid by way of the first applicant's disclosure of bank statements.

4. In her statement, Ms Alvarado stated she left the property on 17 June 2019 and returned the keys to the respondent on 29 June 2019 the second applicant having left the premises in March 2019 due to the breakdown of their relationship. Mr Thomas asserted that he continued to contribute to the rent payable to the respondent. In the supplemental witness statement Ms Alvarado refuted the respondent's suggestions of vexatious and inappropriate behaviour.

The respondent's case

5. The tribunal was provided with a witness statement and a separate bundle of exhibits by the respondent. In a signed witness statement dated 18 November 2020 Mrs Askar-Oladi-Chang accepted a 12 months assured shorthold tenancy had been granted to the applicants of the subject property at a rent of £875 per calendar month. The respondent also accepted that a licence was required from the London Borough of Croydon in accordance with their selective licensing provisions and that she had failed to apply for one until July 2012 although she was aware of the licensing requirements before the grant of the subject tenancy.
6. The respondent asserted that the tenancy was obtained by fraud as the applicants were neither married as she had stipulated as a condition of the grant of the tenancy or living together as 'man and wife' although they had represented themselves as such. The respondent also asserted that the behaviour of the first applicant had been unreasonable and overly demanding due to the constant emails Ms Alvarado sent in respect of the property. The respondent also asserted that the applicants had carried out inappropriate and unsociable behaviour causing complaints to be made by other occupiers in the building and the management company appointed by the Freeholders. The respondent asserted that she had permitted the applicants to leave the property before the expiry of the tenancy without seeking to impose any financial penalty upon them.
7. The respondent asserted that she had recently had the premises redecorated and recarpeted and supplied invoices to that effect and had obtained a current gas safety certificate, bought a new cooker for the premises and carried out promptly repairs to the hot water boiler.
8. The respondent also informed the tribunal that she had a substantial mortgage to pay on the premises and over £2200 per annum in service charges and suffered financial loss due to the applicants' early departure as well as suffering a loss of £1180.80 representing an 8% fee to the letting agents responsible for arranging the letting of the premises. The respondent also asserted that she had had to take time off from her employment with NHS England to allow access to contractors for the boiler repairs as well as having to care for her elderly and infirm parent.

The tribunal's decision and reasons

9. Applying the criminal standard of proof, the tribunal finds that the respondent has committed an offence under section 95(1) of the Housing Act 2004 during the period 30 November 2018 to 29 June 2019, due to her failure to obtain a licence under the selective licensing provisions of the London Borough of Croydon in force during that period.
10. The tribunal finds that the tenancy granted to the applicants was a valid tenancy for a 12 months' period at a rent of £875 per calendar month. The tribunal finds that the respondent did not seek to assert there were arrears of rent and the tribunal finds that the rent was paid in full to the respondent during the period for which the rent repayment order is sought.
11. The tribunal finds the respondent's assertions of vexatious and inappropriate conduct by the applicants to be unsupported by any documentary evidence. Similarly, the tribunal finds the financial expenditure and losses suffered by the respondent to be unsupported by any documentary evidence although accepts the costs incurred for the redecoration, recarpeting and repairs to the flat.
12. The tribunal also finds that the respondent invited and accepted the early surrender of the tenancy by the applicants and therefore no further rent would be payable for the remainder of the term of the tenancy.
13. Therefore, in the absence of evidence of unreasonable conduct the applicants and the financial circumstances of the respondent, the tribunal does not consider it either reasonable or appropriate to make deductions from the rent repayment order sought by the applicants.
14. Therefore, the tribunal finds that the sum of £6,125.00 representing 7 months of rent paid is payable by the respondent to the applicants. This sum is to be paid within 28 days of the date of this decision by way of a payment of £3062.50 to the first applicant and £3062.50 to the second applicant.
15. The tribunal also finds that it is appropriate to grant the applicants' request for a reimbursement of the application fee paid by each applicant. These sums shall be paid together with the sums set out in paragraph 14 of this decision.

Name: Judge Tagliavini

Date: 6 January 2021

Rights of appeal from the decision of the tribunal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).