



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

Case Reference : **LON/OOAU/HMF/2020/0245**

Property : **2 Preachers Court, The Charterhouse,
Charterhouse Square, London EC1M 6AU**

Applicant : **Mr Merryck Lowe**

Representative : **Mr Robert Brown**

Respondent : **The Governors of Sutton's Hospital in
Charterhouse**

Representative : **Mr Dean Underwood**

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

Tribunal Member : **Judge Jim Shepherd
Mr Appollo Fonka, MCIEH, CEnvH, M.Sc.**

Date of Decision : **July 2021**

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1. This case concerns an application for a Rent Repayment Order dated 11 November 2020. As will be seen from this judgement the circumstances of the application were unusual. The law in this area is relatively complex. However, the Tribunal were lucky to have good advocates on either side who are to be commended for their written and oral arguments.

2. The Applicant, Merryck Lowe is the Assured Short hold tenant of premises at 2 Preachers Ct, the Charterhouse, Charterhouse Square, London EC1M 6AU. (The premises). His tenancy agreement began on 24 January 2010.

3. The premises are located within a complex of buildings arranged around a central garden consisting of an almshouse and hospice, privately rented residential self-contained flats, a chapel, and privately rented self-contained commercial premises. The freeholders of the premises and the other buildings are the Governors of Sutton's Hospital in Charterhouse.

4. The Tribunal did not inspect the premises or the other buildings because of the circumstances prevalent during the global pandemic. It was agreed by the parties that the Tribunal should consider selected videos in order to assist in their deliberations. After the hearing the Applicants' solicitors wrote to the Tribunal and asked it to carry out an inspection. The tribunal did not accede to this request because the parties had previously agreed that videos would be provided. In any event the Tribunal considers that it would not have been assisted further by inspecting the premises in person.

The alleged offences

5. The Applicant alleges that the Respondent has committed offences as follows:

6. Firstly, it is alleged that the Respondent has control of or is managing an HMO (House in Multiple Occupation) which is required to be licensed under part 2 of the Housing Act 2004 but is not so licensed. The Applicant says that the courtyard complex which includes the Applicant's flat is an HMO under section 254 (4) of the 2004 Act because it is a building that is converted and the Applicant's self-contained flat is physically joined to a second wing which consists of shared accommodation as part of the almshouse and self-contained

private residential accommodation. It is said that there is free access between the parts of the complex via fire doors and by passing through the central garden. It is also said that the almshouse consists of shared accommodation with shared washing facilities and communal dining. In addition, it is said that the Applicant has at times been required to use shared personal washing and laundry facilities in adjacent buildings for extended periods when the services supplied in his own flat have failed. The argument follows that the building is occupied by more than one household. Further the building is being occupied by most of its residential occupants as their only principal residence. Further it is said that the residents only use the accommodation to live in and rents are paid for the use of the accommodation. Thus, the relevant test (see below) applies it is argued.

7. The argument follows that as the building is a converted building under section 254(4) it falls within the amended licensing scheme which has been in existence since October 2018 as set out in the Licensing of Houses in Multiple Occupation (prescribed description) (England) Order 2018. Accordingly, it is said the building should be licensed. The building self - evidently is not licensed because it is not on the register maintained by the London Borough of Islington. Indeed, Islington have been made aware of this situation but have taken no substantive action.

8. Pausing here. This is an unusual case in which to argue that an HMO exists. Ordinarily HMO cases concern landlords in the private rented sector with tenants living in multiple occupation often without proper facilities etc. This case is unusual because the Applicant lives in self-contained accommodation and indeed has lived in self-contained accommodation for 11 years apparently without complaint as regards the existence of an HMO. It is not putting it too strongly to suggest that this application was a “bit of a stretch”. Nonetheless as indicated already Mr Brown for the Applicant is to be commended for the quality of his advocacy in seeking to persuade the tribunal that it should accept this *stretch*.

9. The second substantive allegation in support of the RRO application is that there has been an offence contrary to section 1(3) of the Protection from Eviction Act 1977. The Applicant is said to have suffered acrimonious legal USA proceedings relating to the absence of financial provision by his former partner for their disabled child who lives with him at the Charterhouse. It is said that the estranged partner was admitted to the complex by the Gatehouse staff against the advice of the Applicant. It is also said that the Respondent wrongfully involved itself in the private and family life of the Applicant. It is said that the Respondent assumed a non-existent right of residence for the estranged partner in the Applicant's home and told its staff that if the estranged partner was excluded the police should be summoned. It is then said that the Respondent purported to terminate the lease of the Applicant by service of a section 21 notice on Wednesday, 3 July 2019 and also instructed its security staff from the date of expiry of that notice to refuse access to the Applicant to enter the complex. As a result, a solicitor's letter was issued on 3 September 2019 advising the Respondent that such actions were a breach of the Protection from Eviction Act 1977. Despite this letter it is alleged on 4 September 2019 and subsequently on more than one occasion the Applicant's security fob was blocked. In addition, it is said that the Applicant's post was returned to the sender by the Gatehouse. It is also said that the Applicant has been rightfully withholding rent because of a deliberate failure to carry out repairs relating to a boiler by the Respondent.

10. As a remedy the Applicant seeks repayment of 100% of the rent for the last 12 months namely £14,265. That is deducting rent arrears owed by the Applicant of £19,011. The Applicant seeks to support this award by stating that as well as harassment there has been disrepair at the premises relating to the boiler. It is also said that the Respondent's contractors used lead paint which was dangerous and that the Respondent's had not carried out gas safety and electrical safety inspections.

11. Accordingly, there were two substantive allegations of offences these being the “HMO allegation” and the “Harassment allegation”. The latter allegation was the subject of an application to strike out brought by the Respondent on the basis that the harassment allegations were time-barred. This application will be dealt with after the determination in relation to the HMO allegation because that was the order that the parties dealt with the case.

The HMO allegation

12. In their expanded reasons the Applicant states that the premises are one of two flats which sits on the upper floor of one side of a cloistered courtyard known as Preachers Court. The cloister did at one time extend along the entire East side of the courtyard but now extends along approximately half a courtyard, a legacy of bomb damage during the Second World War. The East side of the courtyard was historically the home of the preacher for the site that has since been converted into two flats one of which is the Applicant’s flat and two other floors containing commercial premises. The Applicant’s side of the courtyard joins another side which is partly used as hospice accommodation and this then becomes accommodation with shared facilities running around much of the rest of the courtyard with a combination of small bedsits shared dining spaces, washing facilities and others supported spaces. The overall site is used in part for charitable purposes by providing almshouse accommodation to retired persons known as Brothers who live as a community. The site also contains a hospice which is in the wing adjoining the one containing the Applicant’s flat. This cares for Brothers who are no longer able to care for themselves and who require more intensive care. This was all common ground. The dispute is about whether it can properly be said that the site consist of one building.

13. The Applicant argued that Preachers Court at least and arguably the entire site operated by the Respondent is an HMO within the meaning of section 254 of

the Housing Act 2004 alternatively it is said that the east side of Preachers Court is an HMO within the meaning of the same section.

14. Section 254 of the Housing Act 2004 deals with the definition of houses in multiple occupation. In summary a house in multiple occupation is a building which meets the conditions in subsection 2 (the standard test) or meets the conditions in subsection 3 (the self-contained flat test) or meets the conditions in subsection 4 (the converted building test) or an HMO declaration is in force in respect of it under section 255 or it is a converted block of flats to which section 257 of the Act applies. This case concerns the standard test and s.257.

15. Subsection 2 of section 254 states the following:

A building or part of a building meets the standard test if

(a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;

(b) the living accommodation is occupied by persons who do not form a single household (see section 258);

(c) the living accommodation is occupied by those persons is there only or main residence or they are to be treated as so occupying it (see section 259);

(d) their occupation of the living accommodation constitutes the only use of that accommodation;

(e) rents are payable or other consideration is to be provided in respect of at least one of those persons occupation of the living accommodation; and

(f) two or more of the households who occupied the living accommodation share one or more basic amenities of the living accommodation is lacking in one or more basic amenities.

16. Section 257 states the following:

257 HMOs: certain converted blocks of flats

(1) For the purposes of this section a “converted block of flats” means a building or part of a building which–

(a) has been converted into, and

(b) consists of,

self-contained flats.

(2) This section applies to a converted block of flats if–

(a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and

(b) less than two-thirds of the self-contained flats are owner-occupied.

(3) In subsection (2) “appropriate building standards” means–

(a) in the case of a converted block of flats–

(i) on which building work was completed before 1st June 1992 or which is dealt with by regulation 20 of the Building Regulations 1991 (S.I. 1991/2768), and

(ii) which would not have been exempt under those Regulations,

building standards equivalent to those imposed, in relation to a building or part of a building to which those Regulations applied, by those Regulations as they had effect on 1st June 1992; and

(b) in the case of any other converted block of flats, the requirements imposed at the time in relation to it by regulations under section 1 of the Building Act 1984 (c. 55).

(4) For the purposes of subsection (2) a flat is “owner-occupied” if it is occupied—

(a) by a person who has a lease of the flat which has been granted for a term of more than 21 years,

(b) by a person who has the freehold estate in the converted block of flats, or

(c) by a member of the household of a person within paragraph (a) or (b).

(5) The fact that this section applies to a converted block of flats (with the result that it is a house in multiple occupation under section 254(1)(e)), does not affect the status of any flat in the block as a house in multiple occupation.

(6) In this section “self-contained flat” has the same meaning as in section 254

17. The Applicant argues that section 254(4) of the Act applies to Preachers Court in the following way. All the building previously consisted of fewer units of accommodation than it does now. The accommodation is occupied by residents as their only or main home and it is their only use of that accommodation. The residents form more than one household. Indeed it is a condition of their residence that they are single. The residents pay a consideration for their accommodation albeit a minimal one. The residents share basic amenities, in particular they dine in a communal manner albeit that Preachers Court also contains self-contained flats. Crucially the Applicant says that Preachers Court is a single building because he can move freely from the common areas serving his flat through the various wings that surround the courtyard through fire doors that are not locked and are frequently propped

open. He says there is no substantial division between the various wings and they of are structurally and practically contiguous. He also says that in a legal sense the entirety of the site is treated as one premises. All of the council tax entries referred to properties as being part of Preachers Court, the planning authority considers the entire site to be one property and the site is registered with the land Registry under a single title number.

18. As an alternative argument the Applicant says that even if Preachers Court as a whole is not seen as an HMO under section 254(4) the east side of Preachers Court is an HMO for the purposes of section 254 (1) (e) that is an HMO as defined by section 257. Applying that provision the Applicant says the east side is the former preachers house and was a single dwelling that has been converted into two self-contained flats and other commercial dwellings and that conversion does not accord with the requirements of the building regulations 1991. Finally, it is said there are two flats and both are rented on tenancies of less than 21 years. The local licensing authority is the London Borough of Islington and they have had an HMO additional licensing regime in place since 1 February 2021 which applies to section 257 HMOs. Pausing here, it is patently difficult for the Applicant that his application was made before this licensing regime came into play.

19. The Applicant gave a witness statements and gave oral evidence at the hearing. As well as reinforcing the argument that is made in the written submissions he states in his witness statement that he used the communal facilities and indeed stayed in the guestrooms (Para 16) on a number of occasions when there were defects in his property or repairs were being carried out. In other words, he has had the benefit of being able to be decanted to alternative property by virtue of the assistance of the Respondents.

20. The Tribunal was provided with a number of different plans of the premises and the building but were also assisted by the photographs and video evidence provided.

21. The Applicant's case was not supported by evidence given in a report by Bruce Maunder Taylor, FRICS, MAE dated 22 January 2020. The reason that no assistance was given by this report nor indeed Mr Maunder Taylor's oral evidence is that he was required by the Applicant to make an assumption - that Preachers Court *was* an HMO. Accordingly, the Tribunal were not provided with any assistance at all with regard to the the key question of whether preachers court was an HMO because Mr Maunder Taylor was told to assume it was.

22. The Respondent denies that the building which contains the property is an HMO under section 2544 of the act or otherwise. They state that the building containing the hospice is a separate property which adjoins the building in which the premises is located. They further state that the requirements for the converted building test under section 254(4) are not met in this case and they relied particularly on the evidence of Mark Fox dated 22nd of April 2021 and the evidence of their expert Ian Alexander of Cluttons LLP dated 16 April 2021.

23. The Respondents in their written argument which was expanded upon in Dean Underwood's skeleton argument say that the requirements under section 254(4) of the Act are cumulative. In other words, if one limb of the test is not met a building will not be considered an HMO under section 254(4). The Tribunal considers that this must be right. They say that the building is a converted building pursuant to section 254 (4) but the extent of the building is limited to 2 self-contained residential flats. Section 254(4) of the Act requires that a building or part of the building must contain one or more units of living accommodation that do not consist of self-contained flats or flats. Because they say that flats 1 and 2 Preachers Ct are completely self-contained and are the only living accommodation in the building and the building is independent vertically and horizontally from the building containing the infirmary and indeed the rest of the property complex this building does not meet the test in

section 254(4). They accept that a door from the infirmary leads into the building's first floor landing however they state that this operates as an emergency fire escape only. The adjoining door is the only opening to the building from the infirmary. They say that the door is locked shut, fitted with a security alarm and is one of four exits from the first floor of the infirmary building. They rely on the photographs and floor plans annexed to Mr Alexander's report. In summary they say that because the infirmary does not form part of the building this is not an HMO. The Respondents further state as an alternative argument that even if it were found that the Infirmary forms part of the same building paragraph 3 of schedule 14 of the Act provides that a property is not an HMO if it is regulated otherwise than by or under the Act. The infirmary is regulated by the care quality commission and the relevant statutory regulation is provided for at sections 8 to 10 of the Health and Social Care Act 2008. On this basis they say the building if it were found to contain the infirmary could not be an HMO. Pausing here, although the tribunal heard further argument in relation to this point for the reasons that follow it was not necessary to fully deal with this argument in its determination.

24. The Respondents also say that the Applicant can't rely on section 257 of the Act. They say that the London Borough of Islington has only had the applicable licensing regime in place since 1 February 2021. The Tribunal proceedings were brought on 11 November 2020. Section 41 two of the Housing and Planning Act 2016 makes clear that an application for a Rent Repayment Order may only be brought in relation to an alleged offence committed in the period of 12 months ending on the date of the application. Therefore, the Applicant's reliance on section 257 of the Housing act 2004 is misconceived. The Tribunal accepts this argument and determines that it is not open to the Applicant to argue that Section 257 applies in this case because there was no relevant licensing regime in place at the date of the application to the tribunal never mind 12 months before the Tribunal application.

25. The Respondents relied on the evidence of Mark Fox the Head of Property at the Charterhouse. He was appointed on 15 June 2020. One of his roles is to manage the Charterhouse's property portfolio including that occupied by Mr Lowe. Mr Fox reinforced the arguments put forward in the Respondent's written argument. He states at paragraph 10 of his witness statement that the argument that the infirmary is contained within Preachers Court is simply incorrect upon an inspection of the relevant properties. He further states that if the infirmary were contained within Preachers Court the exception in schedule 14 of the Act would apply because the infirmary has at all material times been a care home registered with the care quality commission and is therefore regulated outside of the Act. Pausing here, as already indicated it is not necessary for the Tribunal to reach a concluded position with regard to this argument. However, the Tribunal considers that the Respondents' argument would prevail if a determination was necessary.

26. Mr Alexander's expert report is provided in the Respondent's bundle. He also gave cogent evidence at the Tribunal hearing. He says that the two flats including the premises occupied by the Applicant are completely independent and self-contained. He says the single stairwell provides a fire protected staircase with fire doors fitted with door closers and intumescent strips. The stairwell is fitted with fire alarm call points, a smoke detector, sounders and emergency lighting. He says to the first-floor landing there is a door from the adjoining infirmary. This is the only opening between the adjoining property and provides an emergency exit from the infirmary/pensioners building. The door is locked shut and fitted with a security alarm and this means of escape is one of four exits from the first floor of the infirmary building. In a concise opinion he says that Preachers Court is not contiguous with the infirmary. He says that Preachers Court is both structurally and physically independent, providing a self-contained property in multiple use. It is independent both vertically and horizontally from the infirmary. He did not consider that the emergency exit from the infirmary alters his opinion that Preachers Court is an independent building. He reinforced this argument at the hearing when asked questions. He said that in relation to adjoining properties in London for

example there are many that have shared fire exits between the adjoining properties. Yet these are not regarded as buildings in multiple occupation of the type that would ordinarily be called an HMO.

27. The photos and indeed the videos provided by the parties illustrate that Preachers Court is a different sized building from that containing the infirmary. They also show that the only connection between the two buildings is the fire exit. The Respondents say that this fire exit is permanently locked shut and alarmed.

28. As well as making clear and cogent submissions to the tribunal Mr Underwood provided a skeleton argument supporting the Respondents' opposition to the application for the Rent Repayment Order. At paragraph 13 of his skeleton argument Mr Underwood states that at the North-Eastern corner of the courtyard the building containing the premises adjoins a second building known as the infirmary. The Infirmary is, in essence a self-contained care home for residents of the Charterhouse-known as brothers-and is regulated accordingly by the Care quality commission. As such it provides a long term and short term living accommodation and the care for approximately 10 brothers most of which is ensuite. At paragraph 14 he deals with the fire door which leads from the infirmary to the building's communal staircase - this is marked as a fire door, is fitted with an alarm and may be opened from the infirmary by means of a typical fire door push release in the event of an emergency. In such an event, it may also be opened from Preachers Court by breaking the glass in a red emergency box.

29. Mr Underwood states that the Applicant's argument that the three wings surrounding Preachers courtyard i.e. Preachers Court, the infirmary and the building on the Western side of the courtyard constitute a converted building within section 254 (8) is hopeless because this is a complex of living accommodation, offices, a care home with a surgery, a workshop and exercise room and laundry. Accordingly, he says the case falls at the first hurdle

furthermore he says that on the Applicant's own case the living accommodation is not all occupied as the occupier's only or main residence or indeed at all. In particular the care home is either for full-time residential care or for short stays. Mr Underwood also relies on the exception in schedule 14 which has already been dealt with in this determination.

30. Mr Underwood says that Preachers Court was constructed as a separate building to house the Charterhouse preacher. Preachers Court, the infirmary and the building on the western side of the courtyard each have their own distinct roof and that this is undoubtedly correct. He says that the only internal means of communication between the three buildings is now via fire doors adding that this also is self-evidently correct. The fire door on the first floor is not intended for any use apart from emergency use. In any event he says that functional considerations do not play an important part in determining in any given case where the premises are comprised of one building or two, see *Assessor for the Lothian region v City of Edinburgh DC* [1989] SC 267, at 269:

It would be strange if the creation of some internal mutual access between what were plainly two adjoining buildings and their occupation for the purposes of a single enterprise would by itself convert them into one building. Structural and geographical considerations seem to me to be of greater importance.

31. Pausing here the Tribunal accepts and endorses this analysis of the law.

32. In relation to the s.257 argument put forward by the Applicant, Mr Underwood states that a licence pursuant to that section would only be required from 1 February 2021 when Islington's additional HMO licensing designation came into force. It would not beforehand have been an HMO to which part 2 applied. The current application could not therefore be grounded

on the basis of a section 257 licensing argument. This must be correct. It is not open to the Applicant to retrospectively apply the provisions that are available currently to an application that was made prior to those provisions coming into force. In any event the Tribunal considers that the evidence to support a s.257 application was simply inadequate. Accordingly, that alternative argument must fail.

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The law

33. Chapter 4, 2 of the 2016 Act confers on the First-Tier Tribunal the power to make rent repayment orders where a landlord has committed an offence to which the chapter applies: section 40 (1)
34. By the material parts of s 40 (3), chapter 4 applies to an offence under section 72 (1) Housing Act 2004 and section 1 (3) Protection from Eviction Act 1977 Act that is committed by a landlord in relation to housing in England let by that landlord. By the material part of section 40 (2), a rent repayment order is an order requiring the landlord under a tenancy of Housing in England to repay an amount of rent paid by a tenant. Its purpose is primarily to deter landlords from committing Housing offences rather than to compensate tenants who experience the consequences of those offences: for *Kara v James* [2021] UKUT 38 (LC) per Deputy President Martin Roger QC at (31).
35. By section 41(1), of the 2016 Act a tenant may apply to the first-tier Tribunal for a rent repayment order against a person who has committed an offence to which Chapter four above applies. By section 41(2) however a tenant may only apply for a rent repayment order if the offence related to housing that, at the time of the offence, was let to the tenant, and the offence was committed in the period of 12 months ending with the day on which the application is made.

36. By section 43 (1), of the 2016 act the First-Tier Tribunal may make a rent repayment order if it is satisfied beyond reasonable doubt, that a landlord has committed an offence to which chapter 4 applies, whether or not the landlord has been convicted of the offence.

37. By section 72 (1) of the 2004 Act a person commits an offence if he is a person managing or having control of an HMO which is required to be licensed under part 2 of the 2004 Act and is not so licensed. As outlined by Mr Underwood the offence created by section 72 is a strict liability offence to which there are various statutory defences. It is not necessary in this case to go into the defences for reasons that will become obvious.

38. The tribunal has already outlined the provisions in section 254 and 257 of the 2004 Act in some detail above.

Determination of the HMO issue

39. Despite Mr Brown's best efforts the Tribunal must reject his arguments. The alternative argument made pursuant to s.257 has already been dismissed. The primary argument in relation to section 254 must also fail. The Tribunal endorses the evidence of the Respondents' expert whom it found to be cogent and credible. Mr Alexander was particularly impressive in dealing with the relevance of the only connection between the Infirmary and Preachers Court, that being the fire exit. As already indicated, he stated and the Tribunal accepts that it is not at all uncommon for adjoining buildings particularly in central London to have common fire exits. This does not mean that the buildings are one and the same. Even if the Applicant is right and he frequently used the fire exit that is not sufficient to make this a single building. This self-evidently was an emergency only access. That was the

intention of the fire exit. The fact that the Applicant may have used it otherwise is not relevant in the Tribunal's view. In addition, the Tribunal felt it was disingenuous for the Applicant to seek to argue that because he had been allowed to stay in the Infirmary rooms on occasions when he couldn't stay in occupation of his own self-contained flat this meant that he had free access to that building. The fact that he was allowed to use those rooms with the Respondent's permission emphasizes that this was a separate building from his own self - contained accommodation.

40. Although the Tribunal did not inspect the premises in person it did have very clear video evidence and photographic evidence attached to the Respondents' expert report. That evidence makes it clear that Preachers Court and the infirmary are separate buildings. They are of a different heights, they are used for different purposes and the only connection between the two is the fire exit. The licensing regime for houses in multiple occupation is largely to deal with issues of fire safety and other hazards. It is ironic in these circumstances that the Applicant seeks to argue that a fire door is sufficient to render two buildings joined into one. It patently is not sufficient.

41. The Tribunal took some time in considering the photographic and video evidence and deliberating on the issue however in the Tribunal's view the answer to the question of whether the Applicant's property was part of an HMO is obvious. It plainly is not because it is a self-contained flat within a building which contains only one other self-contained flat.

The harassment argument

42. This issue was dealt with at the end of the hearing after the HMO the issue had been dealt with.

43. Mr Underwood applied to dismiss this application. He said that even if the harassment allegations were proven and were capable of amounting to an offence under section 1(3) of the 1977 Act that offence cannot now ground or be the subject of this application because it is time-barred pursuant to section 41(2) of the 2016 act. In oral argument Mr Underwood said that the Applicant had had two opportunities to plead their case and there had been no application to amend the pleadings and those pleaded allegations were all time-barred. The disrepair complaints were not pleaded as allegations of harassment.

44. It is right that the allegations made in the application only go up to 4th September 2019 and the application was made on 11th November 2020. The witness statement of the Applicant suggests that some of the alleged harassment has continued but no application has been made to amend the application. The Tribunal considers that because these allegations are serious ones to make, alleging criminal conduct, it is incumbent on the Applicant to present his case clearly. It is not good enough simply to suggest in rather vague terms that the conduct has continued – what conduct is being referred to, when did this alleged conduct happen and who was involved? The Respondent is entitled to know what allegations they are facing.

45. Mr Brown urged the Tribunal to allow the harassment case to continue and for the Tribunal to hear evidence on this on the basis that the harassment had continued beyond the pleaded application. Pausing here the Tribunal is doubtful that even if the Applicants case were not time-barred the allegations that he makes would amount to harassment as defined under the Protection from Eviction Act 1977. The allegations are grievances that are not unfamiliar in the landlord and tenant context. The parties have clearly fallen out but to suggest that the conduct of the Respondents' officers constitutes harassment in the criminal sense even if proven is to say the least, ambitious.

46. The Tribunal finds that the application in relation to the harassment issue is time barred and that part of the application is also dismissed.

47. Accordingly, the Tribunal dismisses the application for a rent repayment order. The parties are invited to make any costs submissions if they are unable to agree any question of liability within 14 days after which the Tribunal will make any determination in relation to costs.

Jim Shepherd

Dated

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.