



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

Case Reference : CHI/24UE/HMC/2022/0001

Property : 19A West Street, Fareham PO16 0BG

Applicant : Sharmilla Johnston (nee Ahmed) (1)
Kyle Johnston (2)

Representative : Justice For Tenants

Respondent : Tayfun Cinar

Representative : Pearsons Southern Limited Property
Management

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 Members : Judge J Dobson
Judge T Hingston
Mr L Packer

Date of Hearing : 21st June 2022

Date of Decision : 15th July 2022

DECISION

Summary of the decision

1. **The Tribunal is satisfied beyond reasonable doubt that the First Respondent landlord committed an offence under section 30(1) of the Housing Act 2004 from 10th August 2020 onwards.**
2. **The Tribunal has determined that it is appropriate to make a rent repayment order in favour of the Applicants.**
3. **The Tribunal makes a rent repayment order in favour of the Applicants jointly against the Respondent in the sum of £2659.03. The payment is to be made within 14 days of service of this order.**
4. **The Tribunal determines that the Respondent pay the Applicants £300 as reimbursement of Tribunal fees to be paid within 14 days.**

Application and background

5. By an application dated 15th February 2022, the Applicants applied for a rent repayment order in respect of rent paid during the period of the tenancy with the Respondent. The amount claimed was £5,445.67. Various supporting documents were provided, including a witness statement with a statement of truth, the tenancy agreement and evidence of rent payments made and universal credit received.
6. The application was brought on the ground that the Respondent had committed an offence of failure to comply with an improvement notice under section 30(1) of the Housing Act 2004 (“the 2004 Act”) relation to 19A West St. To that extent, the Tribunal noted the application to be relatively unusual. The property is a self-contained flat with two bedrooms (there is a third room but without a window and which cannot properly be regarded as a bedroom) together with living and ancillary areas.
7. The Respondent is the owner of the property, although the letting, and management at least insofar as receipt of rent payments, of the property was attended to on behalf of the Respondent by an agent, Pearsons Southern Limited Property Management.
8. The Applicants’ case is that a tenancy agreement that was entered into in relation to the property on 14th February 2020, initially for a fixed term of twelve months. The tenancy was a joint one. The property was occupied by both Applicants living together as a couple in a relationship.

The law and jurisdiction in relation to Rent Repayment Orders

9. Rent repayment orders are one of a number of measures introduced with the aim of discouraging rogue landlords and agents and to assist with

achieving and maintaining acceptable standards in the rented property market. The relevant provisions relating to rent repayment orders are set out in sections 40 -46 Housing and Planning Act 2016 (“the 2016 Act”), not all of which relate the circumstances of this case.

10. Section 40 gives the Tribunal power to make a rent repayment order where a landlord has committed a relevant offence. Section 40 (2) explains that 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 (or where relevant to pay a sum to a local authority).
11. Section 41 permits a tenant to apply to the First-tier Tribunal for a rent repayment order against a person who has committed a specified offence, including the offence mentioned at paragraph 6 above, if the offence relates to housing rented by the tenant and the offence was committed in the period of 12 months ending with the day on which the application is made.
12. Under section 43, the Tribunal may only make a rent repayment order if satisfied, beyond reasonable doubt in relation to matters of fact, that the landlord has committed a specified offence (whether or not the landlord has been convicted). Where reference is made below to the Tribunal being satisfied of a given matter in relation to the commission of the offence, the Tribunal is satisfied beyond reasonable doubt, whether stated specifically or not.
13. It has been confirmed by established case authorities that a lack of reasonable doubt, which may be expressed as the Tribunal being sure, does not mean proof beyond any doubt whatsoever. Neither does it preclude the Tribunal drawing appropriate inferences from evidence received and accepted. The standard of proof relates to matters of fact. The Tribunal will separately determine the relevant law in the usual manner. The standard of proof for matters found by the Tribunal other than in respect of the offence asserted to have been committed by the landlord is the balance of probabilities.
14. Where the application is made by a tenant, and the landlord has not been convicted of a relevant offence, section 44 applies in relation to the amount of a rent repayment order, setting out the maximum amount that may be ordered and matters to be considered –discussed further below.

The history of the case

15. Directions were given on 5th April 2022, providing for the parties to provide details of their cases and the preparation of a hearing bundle. The final hearing was listed as video proceedings.
16. The Respondent did not reply to the application. The Applicants consequently did not file any reply.
17. An application as made on behalf of the Applicants dated 18th May 2022 that the Respondent provide his case within seven days in order that the

Applicant would have the opportunity to respond. In response to that, the Tribunal issued a notice that it was minded to debar the Respondent from taking further part in the proceedings. The Respondent was given fourteen days in which to make any representations. None were made. The Tribunal subsequently issued a notice dated 30th May 2022 debarring the Respondent from taking further part in the proceedings.

18. Whilst correspondence was initially sent to an email address for the agent, as provided on behalf of the Applicants, there was subsequently also correspondence to a personal email address of the Respondent which was also provided on behalf of the Applicants during the course of the case. Most notably, that included the Notice of Minded to Debar and the Notice of Debarring. The Tribunal had additionally earlier sent to the Respondent a reminder of a need for a response. Correspondence had also been sent by post to the Respondent.

The Hearing

19. The Applicants were represented at the hearing by Ms Sherratt of Justice for Tenants. The Applicants were both in attendance, at least at the start of the hearing. The Second Applicant needed to leave for work purposes during the course of the hearing, following a request to and agreement by the Tribunal.

20. The Respondent was not in attendance,

21. The oral evidence on half of the applicants was given by the First Applicant, Mrs Johnson.

Was a relevant offence committed and during what period?

22. The offence alleged is failure to comply with an improvement notice. Section 30(1) of the Housing Act 2004 states, in simple and clear terms, that:

“Where an improvement notice has become operative, the person on whom the notice was served commits an offence if he fails to comply with it”

23. The particular improvement notice was served on the Respondent on 9th April 2020 and came into operation twenty- eight days later on 7th May 2020. The Respondent was required to address the hazards specified in Schedule 1 of the notice by not later than 9th August 2020. The Property had been inspected by an Environmental Health Officer employed by Fareham Council on 4th March 2020.

24. There was a further attendance on behalf of the local authority on 26th August 2020, by which time the works ought to have been completed. On 18th February 2021, there was another visit to the Property and at which it was identified that still none of the works had been completed. In the absence of any action being taken by the Respondent in response to the notice, the local authority served a notice in relation to taking action without agreement, dated 18th February 2021. It is the Applicants’ case

that at the time of vacation of the Property, the works were still incomplete and so there remained a lack of compliance.

25. The Applicants provided documentation to demonstrate that the improvement notice was issued and that it had not been complied with by at least 18th February 2021. There was no case advanced by the Respondent challenging any of the above documentation. The Tribunal accepts the Applicant's case that the works remained outstanding at the end of the tenancy.
26. The Tribunal finds the offence to have been committed to the required standard, and so beyond reasonable doubt, and determines the failure to comply with an improvement notice offence to have been committed until the Applicants vacated. The Applicants vacated the Property on the 16th March 2021, the Tribunal finds.
27. However, the Tribunal does not accept that the Applicants is correct as to the commencement date of the offence. The Applicants' case was that the offence was committed as soon as the improvement notice became operative.
28. The Tribunal determines that the key date is not the date on which the notice became operative but rather the date by which it was required to be complied with, namely 9th August 2020.
29. The Respondent committed an offence after he failed to have complied by that date. The offence was therefore first committed the day after, being the first date on which the work was required to have been completed but was not completed, therefore on 10th August 2020.
30. The Respondent had not complied with the notice on earlier dates but did not commit an offence in failing to do so. The Respondent could have complied with the notice on any date up to and including the latest date on which he was required to comply, i.e. the end of 9th August 2020.
31. The Tribunal therefore determines that the period in which the offence was committed was that from 10th August 2020 to 16th March 2021 inclusive.

The decision in respect of making a rent repayment order

32. Given that the Tribunal is satisfied, beyond reasonable doubt, that the Respondents committed an offence under section 72(1) of the 2004 Act, a ground for the making of a rent repayment order has been made out.
33. Pursuant to the 2016 Act, a rent repayment order "may" be made if the Tribunal finds that a relevant offence was committed. Whilst the Tribunal could determine that a ground for a rent repayment order is made out but not make such an order, Judge McGrath, President of this Tribunal, said whilst sitting in the Upper Tribunal in *The London Borough of Newham v John Francis Harris* [2017] UKUT 264 (LC) as follows:

“I should add that it will be a rare case where a Tribunal does exercise its discretion not to make an order. If a person has committed a criminal offence and the consequences of doing so are prescribed by legislation to include an obligation to repay rent or housing benefit then the Tribunal should be reluctant to refuse an application for rent repayment order.”

34. The very clear purpose of the 2016 Act is that the imposition of a rent repayment order is penal, to discourage landlords from breaking the law, and not to compensate a tenant- who may or may not have other rights to compensation. That must, the Tribunal considers, weigh especially heavily in favour of an order being made if a ground for one is made out.
35. The Tribunal is given a wide discretion and considers that it is entitled to look at all of the circumstances in order to decide whether or not its discretion should be exercised in favour of making a rent repayment order. That is a different exercise to any determination of the amount of a rent repayment order in the event that the Tribunal exercises its discretion and makes such an order, albeit that there may be an overlap in factors relevant.
36. The fact that the Respondent failed to respond to the application, does not alter the need for the discretion to be properly exercised. It necessarily follows from there being a discretion to make a rent repayment order, as opposed to such an order following as a matter of course, that there will be occasions on which it may be considered not appropriate to make an order notwithstanding that a relevant offence has been found to have been committed, albeit such occasions are likely to be rare.
37. The Tribunal raised an issue as potentially relevant to the exercise of its discretion notwithstanding that it had not been pursued by the Respondent, of whether there ought to be an impact in the event that incorrect information was found to have been provided by the First Applicant in relation to their claim for Universal Credit, including an element related to the rent payable for the Property. The evidence in support of the application included details of the Universal Credit paid to the First Applicant and appeared to indicate that the benefits had been paid on the basis of the First Applicant not being in a relationship. In contrast the witness statement signed by the Second Applicant with a statement of truth and relied on in the course of this application says the Applicants were a couple when they moved in and have remained so since, so that potential contradiction was of relevance at least in considering the evidence received.
38. The Applicant in giving evidence stated that the application form she had completed asked her whether she was married or single and she replied to that stating that she was single- she was not then married to the Second Applicant. The Applicant maintained in response to further questions from the Tribunal that her answers to questions on the application form had been correct and said that the wording on the payments had not alerted her to any potential issue with her claim. The Tribunal did not have before it the actual application form(s) completed by

the First Applicant or other evidence to contradict the First Applicant. The Tribunal did not find there to be a basis not to exercise its discretion in the Applicants' favour.

39. Having considered the circumstances and giving the most weight to the purpose of the 2004 Act, the Tribunal exercised its discretion to make a rent repayment order in favour of the Applicants.

The manner of determining the amount of rent to be repaid

40. Having exercised its discretion to make a rent repayment order and determined the period for which the order should be made, the next decision was how much should the Tribunal order.

41. In the absence of a conviction, the relevant provision is section 44(3) of the 2016 Act, which states in respect of the offence found to have been committed by this Respondent that the amount ordered to be repaid must "relate to" rent paid during the period identified as relevant in the table in section 44(2), being:

‘a period, not exceeding 12 months, during which the landlord was committing the offence’.

42. The Applicants' case was that the twelve months need not be the last twelve months prior to the date of the application. The Tribunal adopts that position as correct.

43. Section 44(3) explains that the Tribunal must not order more to be repaid than was actually paid out by the Applicants to the Respondent during that period. The section explains that:

“The amount that the landlord may be required to repay in respect of a period must not exceed—

(a) the rent paid in respect of that period, less

(b) any relevant award of universal credit paid (to any person) in respect of rent under the tenancy during that period.”

44. The Tribunal has a discretion as to the amount to be ordered, such that it can and should order such amount as it considers appropriate in light of case law and the relevant facts of the case.

Relevant caselaw

45. The Tribunal is mindful of the various decisions of the Upper Tribunal within the last approximately two years, in relation to rent repayment order cases.

46. Section 44 of the 2016 Act does not when referring to the amount include the word “reasonable” in the way that the previous provisions in the 2004 Act did. Judge Cooke stated clearly in her judgement in *Vadamalayan v Stewart and others* (2020) UKUT 0183 (LC) that there is no longer a

requirement of reasonableness. Judge Cooke noted (paragraph 19) that the rent repayment regime was intended to be harsh on landlords and to operate as a fierce deterrent.

47. The judgment held in clear terms, and perhaps most significantly, that the Tribunal must consider the actual rent paid- and not simply any profit element which the landlord derives from the property, to which no reference is made in the 2016 Act. The Upper Tribunal additionally made it clear that the benefit obtained by the tenant in having had the accommodation is not a material consideration in relation to the amount of the repayment to order. However, the Tribunal could take account of the fact of the rent being inclusive of the utilities where it was so. In those instances, the rent should be adjusted for that reason.

48. In *Vadamalayan*, there were also comments about how much rent should be awarded and some confusion later arose. Given the apparent misunderstanding of the judgment in that case, on 6th October 2021, the judgment of The President of the Upper Tribunal (Lands Chamber), Fancourt J, in *Williams v Parmar* [2021] UKUT 0244 (LC) was handed down. The other Upper Tribunal decisions between *Vadlamayan* and *Williams* retain relevance in respect of specific matters arising in those cases but not as to the amount of rent to be awarded.

49. *Williams* has been applied in more recent decisions of the Upper Tribunal, as well as repeatedly by this Tribunal. The judgment explains at paragraph 50 that:

“A tribunal should address specifically what proportion of the maximum amount of rent paid in the relevant period, or reduction from that amount, or a combination of both, is appropriate in all the circumstances, bearing in mind the purpose of the legislative provisions.”

50. Secondly, the award should be that which the Tribunal considers appropriate applying the provisions of section 44(4). There are matters which the Tribunal “must, in particular take into account”. In *Williams*, they are described as “the main factors that may be expected to be relevant in the majority of cases”. Fancourt J in *Williams* says this:

“A tribunal must have particular regard to the conduct of both parties (including the seriousness of the offences committed), the financial circumstances of the landlord and whether the landlord has been convicted of a relevant offence.”

51. However, the President then adds:

“The Tribunal should also take into account any other factors that appear to be relevant.”

52. Since the decision in *Williams*, further applications in relation to which the Tribunal had made awards prior to that decision have been the subject of hearings before the Upper Tribunal.

53. Most recently, two judgments have been handed down by Martin Rodger QC, Deputy President of the Upper Tribunal (Lands Chamber) in the cases of *Hallett v Parker and Others* [2022] UKUT 165 (LC) and *Simpson House 3 Limited v Osserman and Others* [2022] UKUT 164 (LC).
54. The outcome of those cases in terms of the amount of the rent repayment order made and the percentage of the rent to which that was equivalent differed considerably. The consistent factor was the importance of the conduct of the parties. The judgments referred to paragraph 41 of the judgment in *Williams* in which reference was made to the seriousness of the offence, but more detail was provided in applying that to the facts of the two cases.
55. In *Hallett*, the landlord had failed to obtain a licence for a licensable house in multiple occupation (HMO). The Tribunal found that the Respondent had instructed a managing agent but on an ad hoc basis and had not fully delegated management responsibilities. Whilst that had been insufficient to amount to a defence of reasonable excuse to the potential offence of failing to license, it was relevant to conduct. Smaller landlords were encouraged to seek the assistance of professional agent (paragraph 32). The property was “in fairly good condition”. The tenants received an award of a sum roughly equivalent to 25% of the rent paid during period in which the offence had been committed.
56. In marked contrast, in *Simpson House*, the landlord was described as “a large property investment company” with sufficient resources, although it also appointed a letting and managing agent. There was again insufficient for a reasonable excuse for failing to license, including with lower weight to be given to the appointment of an agent by a large company. There were certain other failings of management identified. There were some allegations of problems with the property itself, but the First Tier Tribunal had found that complaints of disrepair were dealt with appropriately and in a timely manner, although there was also a defective smoke detector, as identified by a housing officer from the local authority, but which in that instance carried no weight. Other potentially serious allegations were held not made out. However, the Respondent was found to have responded to issues by “vindictively terminating the tenants’ right of occupation”, which was taken into account. The tenants were awarded a sum equivalent to a little under 80% of the rent for a twelve- month period.
57. The Deputy President said, at paragraph 51 as follows:
- “The policy underlying the rent repayment regime is directed towards the maintenance of good housing standards. It is consistent with that policy that a landlord who lets a property in good condition and who complies with its repairing obligations should be treated differently from one who lets property in a hazardous or insanitary condition.”
58. It was also said in paragraph 53:

“Proper compliance with a landlord’s duties in relation to fire precautions is of the utmost importance.”

59. The judgments in the above recent cases were not before the Tribunal, inevitably given that they post- dated the hearing by a few days. The Tribunal has not sought representations about the judgments upon becoming aware of them.

60. The Tribunal has given careful thought to that and is mindful that, save in the case of well- established and uncontroversial authorities, the Tribunal ought not to rely on case authorities in the absence of providing an opportunity for the parties to make representations. Arguably, the Tribunal ought not to therefore mention the authorities at all. It is appropriate for the Tribunal to briefly explain its approach.

61. The two judgments of Martin Rodger QC apply *Williams* to the facts of those cases. There are a number of other observations made which it should be expected will be given weight by this Tribunal in future cases. However, the facts of both are somewhat different from this instant application.

62. The Tribunal reached its decision on the day of the hearing and prior to the two judgments being handed down. The Tribunal has then read and obtained some assistance from the judgments. However, the determination of the amount of the rent repayment order is unchanged. The Tribunal accepts that it could nevertheless have sought representations as to whether the Decision ought to change, although it appears to the Tribunal highly likely that the Respondent at least would not have engaged, having not done so with any previous part of the proceedings.

63. Taking matters overall, whilst the Tribunal considers that any discussion of caselaw ought to include up to date caselaw and so included such, the Tribunal considers that it is sufficiently unlikely that representations in respect of the two judgments in cases with different facts would alter the level of rent repayment order that the delay and expense which may arise is not merited.

64. The relevant factors and the appropriate award

65. The Tribunal turns to the factors relevant in this application and the outcome of weighing those factors.

Financial circumstances

66. In terms of the financial circumstances of the Respondent, the Tribunal was not in possession of any relevant information. The Tribunal therefore did not alter the level of order otherwise considered appropriate.

Conduct

67. The Respondent did not assert any relevant conduct of the Applicants, given the lack of any response from him at all.
68. There was relevant conduct on the Respondent's part, upon which the offence itself was founded.
69. The service of an improvement notice requires the local authority to have concluded that the Property suffered from category 2 hazards to health. An appeal can be made against the notice if the relevant party wishes to challenge it. The Respondent had neither sought to challenge the notice nor undertaken the required works. In effect, the notice had simply been ignored. The hazards from which the Property suffered had remained.
70. The current proceedings had also been ignored. The Respondent had failed to respond to this application such that he had been debarred. The complaints by the Applicants which led to the involvement of the local council authority had earlier been ignored.
71. The Tribunal considers that an offence of failure to comply with an improvement notice will in general be more serious than failure to license alone necessarily is. There must be defects to the property which are hazardous to health and have not been responded to in response to an improvement notice. There was a failure on the part of the Respondent to maintain good housing standards and rather he let a property in a condition which included hazards. The purpose of Part 2 the Act and related legislation was primarily to tackle "rogue landlords and letting agents", as noted above. In failing to maintain the Property free from standards and in particular in failing to comply with the improvement notice, the Respondent meets that description.
72. It is in this instance, the defects relevant to the Property as detailed in the improvement notice were firstly matters in the communal areas, disrepair to the front door and frame of another flat and the power supply to the fire alarm and detection system and emergency lighting being via a pre-paid meter and separately lifting of rubber flooring. Those include not inconsequential matters and of potentially considerable relevance in the event of a fire, where attendance fire precautions have been described by the Upper Tribunal as being of the "upmost importance". In addition to addressing the specific items, a fire risk assessment was required. The local authority gave a period of four months for the Respondent to complete the work. Given the work was not complex, the Tribunal finds to be indicative that much as there was a requirement for attention that was not assessed as requiring urgent attention, which has relevance.
73. Secondly, within the Property itself, there were found to be penetrating damp to the ceiling of the communal hallway, a bedroom and the "second lobby", together with excessive movement to the bathroom toilet and a missing bath panel. The work in respect of the damp involved both investigating and the work identified as required being undertaken. A period of four months, and so until 9th August 2020, was again given for

the remedial work to address the hazards to be undertaken. The observation about timescale made in the preceding paragraph applies.

74. Regard must be had to relative seriousness and the Tribunal considers that applies to different levels of the given offence just as it does to different types of offence. This instance was plainly unsatisfactory in itself. It is understandable why the notice was served. It is not understandable why nothing was done by the Respondent.
75. The Applicants also alleged that the flooring in the kitchen was unstable and that any pressure would make the slats move making it dangerous. The Second Applicant said in his witness statement that a report was made to the agents, whose reaction was to laugh. There is no evidence one way or the other as to whether the Respondent was aware.
76. The Second Applicant also refers to kitchen tiles starting to fall off and to mould and mushrooms below the kitchen cupboards. The Tribunal accepts the unchallenged evidence as far as it goes. However, no reference is made to those being reported, so that there is no evidence from the Applicants that the Respondent or his agent were aware so as to trigger any obligation to take action.
77. There are no relevant photographs which makes it hard to gauge the extent of the difficulties with the items not within the improvement notice. There is also no reference to those matters in the improvement notice or any later new or amended notice. Neither is there any other correspondence, whether from the local authority or otherwise, making reference to such matters. It is not apparent that the local authority accepted a hazard existed.
78. Given the lack of evidence and in light of the greater significance of the failure to comply with the improvement notice, the Tribunal determines that there is insufficient in respect of any defects other than those contained within the improvement notice on which it can give additional weight in respect of conduct.
79. Whilst the references in *Hallett* to a smaller landlord seeking professional assistance will be useful in subsequent cases- and whilst the evidence before the Tribunal indicates, accepting that the picture may be incomplete, the Respondent to be a “smaller landlord” and one who plainly did engage agents- there is, firstly a lack of evidence as to the relationship between the Respondent and the agents. It is apparent that the rent was paid to the agent and a repair reported to the agent but that is all that is known about reliance on the agent by the Respondent. More significantly, the lack of a HMO licence which a landlord might not know of a need for, is quite different to failing to address an improvement notice served. The fact of an agent having been instructed does not, the Tribunal finds, assist this Respondent to much extent and nothing in *Hallett* or *Simpson House* altered the Tribunal's determination on that point.

80. The condition of the Property which gave rise to the improvement notice and the continuing defects until the end of the tenancy go to support a relatively high of rent being ordered to be repaid, although where there was no unlawful eviction or other potential loss of possession which would have moved the case further up the scale.

Other circumstances than those specifically listed in the 2016 Act

81. The Tribunal did not identify any other relevant circumstances on the evidence presented.

Award

82. The Tribunal has carefully weighed the conduct of the Respondent and considered the appropriate percentage of the relevant rent paid which reflects that. The Tribunal notes that the Applicants sought 100% of the rent paid but considers that was never a realistic position.

83. The Tribunal awards the Applicants a sum equivalent to 75% of the rent paid in respect of the period in which the offence of failing to comply with an improvement notice was committed

The amount of the repayment

84. The Applicants sought repayment of £5,596.48, being the equivalent of the, full, rent paid during the period 7th May 2020 to 5th February 2021 (the last of which would have covered the month up to the date of the Applicants vacating the Property. That is the rent paid excluding the amount of the payments of universal credit paid to the First Applicant.

85. However, the actual period relevant is 10th August 2020 onwards and up to and including the final rent payment on 5th February 2021. The award is 75% of that.

86. The Applicants case quite properly identified that to the total rent paid, a reduction must be applied for the amount of the element of the universal credit payments claimed by the First Applicant in respect of cost of housing.

87. The Tribunal has considered the amount of the universal credit payments made in respect of housing costs during the relevant period from 10th August 2020 onward as evidenced by the documents produced by the Applicants. The first relevant payment was made by 7th August 2020 and so prior to the offence being committed but mostly relating to rent in the relevant period, the Tribunal considers.

88. In that regard, each payment gives an assessment period, being the preceding month. For example, the payment to be made by 7th August gives an assessment period of 1st to 31st July 2020. However, the Tribunal understands the assessment period to be the period during which the income was received which is used to calculate the entitlement for the

following month. Hence, the payment to be made by 7th August 2020 did relate to rent payable in August and not for July. The subsequent payments of universal credit evidenced are consistent with that.

89. The August rent payment was due to be paid to the landlord by 14th August. The equivalent position applied to each subsequent month. The payments had been reduced by universal credit as exceeding the maximum payable and had further reduced a little in the first two months to reflect the First Applicant's limited earnings. However, there were no earnings of hers from September 2020 onward which affected the level of payments received for housing relevant for these purposes.
90. Therefore the universal credit paid and which the rent paid is less is £342.45 for each of 14th August 2020 to 13th September 2020 and the subsequent months, being seven payments ($7 \times £342.45 = £2397.15$), plus such of the previous universal credit payment for housing costs as related to the period 10th to 13th August 2020 inclusive ($4 \times £11.26 = £45.04$). Therefore £2442.19.
91. The rent paid in respect of the period was £875 for each of the same seven months plus the sum which relates to 10th to 13th August 2020 and an extra £25 paid on 5th February 2021 (the payment was £900 not £875). The daily rate was calculated on behalf of the Applicants as £28.77, which the Tribunal adopts ($4 \times £28.77 = £115.08$).
92. The Tribunal treats the additional £25 paid on 5th February as reflecting an expectation that the Applicants would not leave on the last day of the rent period, so 13th March 2021, and towards an additional period of occupation, although that ought to have been more in the event. As no point was taken by the Respondent, the Tribunal did not, it should be mentioned briefly, take the failure to pay rent in full for the last couple of days of occupation as conduct requiring weighing.
93. The rent for the period in which the offence was committed is therefore £6265.08 ($7 \times £875 = £6125$ plus £115.08 plus £25).
94. The relevant figure net of that universal credit total is £3823.61 (£6265.80 minus £2442.19).
95. The Applicants are therefore awarded by way of rent repayment order 75% of £3823.61, namely £2848.96.

Application for refund of fees

96. The Applicants asked the Tribunal to award the fees paid in respect of the application should they be successful, namely reimbursement of the £100 issue fee and the £200 hearing fee.
97. An application fee having needed to be paid in order to bring the claim and the Applicants having been successful in the proceedings, the Tribunal considered that the fees should be paid by the Respondent. The

Respondent had not argued otherwise, and the Tribunal could identify no reason why the Applicants ought not to recover the fees for their successful application against the Respondent.

98. The Tribunal does order the Respondent to pay all of the fees paid by the Applicant and so the sum of £300.

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 by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at 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.