



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

**Case Reference** : **MAN/00CG/HSA/2019/0001**

**Property** : **17 Spurr Street, Sheffield S2 3GY**

**Applicant** : **Sheffield City Council**

**Respondent** : **Stephen John Donoghue**

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

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

**Date of Determination** : **4 April 2019**

**Date of Decision** : **10 April 2019**

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**DECISION**

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## DECISION

The Respondent is ordered to repay rent to the Applicant in the sum of £998.

## REASONS

### BACKGROUND

1. From early July 2017 to 15 January 2018 the Applicant was the local housing authority responsible for payment of universal credit to Mr Coatman, one of the tenants of 17 Spurr Street, Sheffield.
2. At all material times Mr Coatman's rent was received by the landlords the Respondent and his former wife Mrs Cartwright.

### THE LAW

3. Section 41 of the Housing and Planning Act 2016 ("the Act") enables a local housing authority to apply to this tribunal for an order for repayment of rent by a person who has committed one of the offences listed at section 40 of the Act, including unlawful eviction of a tenant contrary to the Protection from Eviction Act 1977.
4. Section 43 of the Act enables the tribunal to make a rent repayment order.
5. If the tribunal decides to make a rent repayment order, section 46 of the Act sets out the basis on which any such repayment is to be calculated. The amount to be repaid must be the maximum the Tribunal has power to order, ie "*the amount of universal credit that the landlord [the Respondent] received in respect of rent for the tenancy*" in the 12 month period ending with the date of the offence (subsection 45(3)).
6. Subsection 46(5) of the Act states that nothing in section 46 requires the payment of any amount that, by reason of exceptional circumstances, the tribunal considers it would be unreasonable to require the landlord to pay. "Exceptional circumstances" are not defined.

### THE CONVICTION

7. On 11 September 2018 the Respondent was convicted in the South Yorkshire Magistrates' Court of depriving a residential occupier (Mr Coatman) from premises (17 Spurr Street) on 15 January 2018.
8. He was fined £2000. With the addition of compensation, victim surcharge and costs, the total he is required to pay to the court is £3,364. Due to his financial circumstances, the Respondent has been ordered to pay this sum at the rate of £30 per month (112 repayments in total).

## THE STATEMENTS OF THE PARTIES

9. On 9 January 2019 the Applicant applied for a rent repayment order.
10. In his statement dated 28 February 2019 Mr Hickling, Legal and Policy Officer for the Applicant, says that £2061 was the amount of universal credit received by the Respondent prior to the offence. This includes an apportionment of a benefits payment made after the date of the offence. Without this apportionment, the Applicant has provided the figure £1996.71, which appears to be the amount that the landlord actually received during the relevant period.
11. In response to the Respondent's statement of case, the Applicant states that the statement "*does not set out exceptional circumstances that would render it unreasonable to require the landlord to pay the maximum amount of Rent Repayment Order*".
12. The Respondent produced informal statements from former tenants of 17 Spurr Street expressing their relief that Mr Coatman had been required to leave the premises.
13. As to the universal credit he received, he says that he shared the rent equally with his former wife. He claims to be in financial difficulties, and this appears to the tribunal to be borne out by the reduced instalments order (£30 per month) made by the magistrates court in October.
14. The Respondent also seeks to have that part of the rent that was attributable to the provision of utilities deducted from the repayment order. However, the tribunal finds that the rent paid via universal credit was an occupation rent only, and did not include a contribution to household bills.

## EXCEPTIONAL CIRCUMSTANCES

15. The Tribunal finds that there are exceptional circumstances which would make a repayment order for the maximum amount unreasonable.
16. The Respondent personally received 50% of the rent.
17. Mr Coatman had notice of the intention to require him to leave the premises, although a repossession order was not obtained. He was able to return to his room to remove his possessions.
18. There is no indication that the Respondent was generally a bad landlord. Indeed, he took action to remove Mr Coatman at the urgent request of his other tenants.
19. For these reasons, the maximum rent repayment order is reduced by 50% and the amount repayable is £998.

AM Davies  
Tribunal Judge  
10 April 2019