



**First-tier Tribunal  
Property Chamber  
(Residential Property)**

**Case reference** : **CAM/00KG/HMC/2017/0001**

**Property** : **8 Benson Road,  
Grays,  
RM17 6OL**

**Applicant** : **Rachel Reid**

**Respondent** : **Kulwinder Kaur**

**Application** : **Application by a tenant for a Rent Repayment  
Order following a conviction of the  
Respondent for failing to comply with an  
Improvement Notice – Section 43 of the  
Housing and Planning Act 2016 (“the 2016  
Act”)**

**Date completed** : **22<sup>nd</sup> December 2017**

**Application received**

**Tribunal** : **Bruce Edgington (lawyer chair)  
Mary Hardman FRICS IRRV (Hons)**

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**DECISION**

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1. The application for a Rent Repayment Order is refused.

**Reasons**

**Introduction**

2. Rent Repayments Orders (“RROs”) are intended to act as a deterrent to prevent offending landlords profiting from breaking the law.
3. Such orders were originally made pursuant to the **Housing Act 2004** but this application is made under the later provisions contained in the 2016 Act. Section 41(1) of the 2016 Act says that “*A tenant..... may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies*”.

4. Section 40 sets out the offences and prefaces the definition by saying “*an offence, of a description specified in the table, that is committed by a landlord in relation to housing in England let by that landlord*”. One of those offences described is under section 30(1) of the **Housing Act 2004** “*failure to comply with an improvement notice*”.
5. The Applicant has produced a copy of the Southend Magistrates’ Court register for 23<sup>th</sup> October 2017 which confirms that Kaur Kalwinder failed to comply with an improvement notice on the 22<sup>nd</sup> May 2017. A letter from Thurrock Council dated 15<sup>th</sup> March 2019 confirms that an improvement notice was served on the Respondent in respect of the property on the 31<sup>st</sup> May 2016. The Applicant confirms in her application that the Respondent was given an extension of time to comply with the notice until 20<sup>th</sup> May 2017.
6. Due to certain procedural difficulties, there has been a delay in this application proceeding. Eventually, a directions order was made on the 10<sup>th</sup> December 2018 stating that the Tribunal would be content for this application to be dealt with on a consideration of the papers and any written representations of the parties on or after 4<sup>th</sup> March 2019. It was also made clear that if either party wanted an oral hearing, then one would be arranged. No request has been made for a hearing and no representations have been received from the Respondent.

### **Jurisdiction**

7. Section 41 of the 2016 Act says that the Tribunal has jurisdiction if “*the offence was committed in the period of 12 months ending with the day on which the application is made*”. In this case, the offence was committed on the 20<sup>th</sup> or 22<sup>nd</sup> May 2017 and the application was received on the 22<sup>nd</sup> December 2017. Accordingly, the Tribunal has jurisdiction.
8. The problem faced by the Applicant is that under section 44 of the 2016 Act, the RRO can only “*relate to rent paid during....a period, not exceeding 12 months, during which the landlord was committing the offence*”.

### **Conclusion**

9. In this case, the Applicant accepts that the landlord was given an extension of time to complete the works set out in the improvement notice until 20<sup>th</sup> May 2017 which means that no offence was committed until that time expired. You cannot fail to comply with an improvement notice until the time for completing the works has expired.
10. The Applicant claims an RRO for the period from November 2016 until April 2017 in the total sum of £2,068.96. She says that she paid no rent after April 2017 although housing benefit was paid by the local authority during that period. It is self evident that none of the rent of £2,068.96 was paid during a period during which the landlord was committing the offence because the offence was not committed until the 20<sup>th</sup> May 2017.
11. It may be that the Applicant believes that the offence was actually being committed during this period as the improvement notice was served in May 2016.

However, the mere service of an improvement notice is not an offence. It only becomes an offence when the time for completion of the works comes to an end which, in this case, was the 20<sup>th</sup> May 2017 according to the Applicant.

12. Accordingly, on the basis of the case put forward by the Applicant which has not been expanded upon or changed by any further evidence, the Tribunal cannot make the RRO as the rent paid by the Applicant was not paid during the period when the Respondent was committing the offence in question.

.....  
**Bruce Edgington**  
**Regional Judge**  
**19<sup>th</sup> March 2019**

#### **ANNEX - RIGHTS OF APPEAL**

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.



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**Introduction**

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3. Such orders were originally made pursuant to the **Housing Act 2004** but this application is made under the later provisions contained in the 2016 Act. Section 41(1) of the 2016 Act says that “*A tenant..... may apply to the First-tier Tribunal for a rent repayment order against a person who has committed an offence to which this Chapter applies*”.

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**Regional Judge**  
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