



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

**Case Reference** : **BIR/00FY/HMK/2019/0092**

**Property** : **9 Pump Works Close Nottingham  
NG5 2HU**

**Applicant** : **Elaine Wilson**

**Applicants  
Representative** : **Nottingham Law Centre**

**Respondent** : **Steve Shaw/Hammond Property Services**

**Application** : **Application for a Rent Repayment Order under  
S41(c) of the Housing and Planning Act 2016**

**Tribunal Members** : **Judge Andrew McNamara  
Mr. R Chumley Roberts MCIECH, J.P.**

**Date of Decision** : **11 May 2020**

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**DECISION**

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1. By an application dated 27 November 2019, the Applicant sought a rent repayment order pursuant to S41(c) Housing and Planning Act 2016 (H&PA 2016).
2. The Application relates to residential property known as and located at 9 Pump Works Close, Nottingham, NG5 2HU (the premises).
3. The Respondent, Steve Shaw, trades from the business address of Hammond Property Services, 603 Mansfield Road, Nottingham, NG5 2FW. In addition an alternative, correspondence address for the Respondent was set out in the application form as 11 Market Place, Bingham. NG13 8AR.
4. The Applicant is represented by the Nottingham Law Centre and the Respondent, who has failed to engage with the application, is nominally in person.
5. Following receipt of the application on 9 December 2019, on 10 December the Tribunal sent a letter to the Applicant's representatives requiring her to provide by 24 December 2019:
  - *Evidence that you have paid rent*
  - *A copy of the tenancy agreement*

The information was not forthcoming so directions were given by the Tribunal on 30 December 2019 which included, amongst other things, that the Tribunal was minded to strike out the claim unless it received written representations to the contrary by 4.00 p.m. on 17 January 2020.

6. By letter dated 10 January 2020, the information requested from the Applicant was provided: a copy of a tenancy agreement dated 27 October 2016 (signed by the Applicant and what appears to be '*L Lewis*' on the same day); and an undated email, from the Lettings Manager of Hammond Property Services, to the applicant, concerning the '*end of the tenancy*' and demonstrating that the Applicant was in

- arrears of rent in the sum of £472.60. From that the Tribunal was invited to infer that *'all of the other rent due was maintained'*. The rental sum was £625 per month.
7. That prompted further Directions from the Tribunal dated 15 January 2020 by which, and in short, the Applicant and Respondent were required to file statements of case by 6 February and 27 February 2020 respectively.
  8. Presciently, in the light of the subsequent health emergency, the Applicant consented to a paper determination. The Respondent was invited to address that issue when lodging the statement of case.
  9. The Directions were sent to the parties under cover of letters dated 15 January 2020. In the Respondent's case to both the Bingham address given in the application and the Mansfield Road, Nottingham address. Although one version of the directions (sent to Hammond Property Services, Nottingham) was returned, the letter sent to the Bingham address was not.
  10. Notice of the hearing of the application, set for 24 April 2020, was sent to the Applicant's representative and the Respondent at the Bingham address by letter dated 23 January 2020.
  11. The Tribunal received no statement of case from the Respondent in accordance with the Direction that it be filed by 27 February 2020.
  12. On 4 February 2020, the Tribunal received a statement dated 29 January 2020 from the Applicant under cover of a letter from Nottingham Law Centre dated 3 February 2020.
  13. Under cover of a letter dated 7 February 2020 from Nottingham Law Centre, the Tribunal also received a copy of a letter dated 3 February 2020 sent by the Nottingham Law Centre to the Respondent care of Hammond Property Services in Bingham serving upon him two copies of the Statement of Case.

14. On 28 February the Tribunal wrote to the Respondent to grant further time for filing until 6 March 2020. This decision was sent to the Respondent's Bingham address by letter dated 28 February 2020.
15. Still no statement of case was received. Accordingly, a further direction was issued on 9 March 2020 extending time for filing until 13 March 2020. The Order provided that, unless received by that date, the Respondent would be barred from further participation in the proceedings and that the application would be dealt with summarily.
16. On 13 March 2020, the Tribunal was contacted by Hammonds on behalf of the Respondent. The Respondent's representative explained that the appropriate address was 11 Market Place, Bingham. She went on to suggest that the licence had been applied for but that there was a back log with the local authority.
17. The Tribunal's officer informed the Respondent's representative that the Respondent needed to respond to the Directions or face being barred from any further participation in the proceedings.
18. Also on 13 March 2020, the Respondent, in person, telephoned the Tribunal and explained that he was not aware of the application as the Tribunal had been communicating with his agents. He was sent the application, the Applicant's statement of case and the Directions by email the same day.
19. On 17 March 2020, after consideration by a Procedural Judge, the Respondent was given a further period of grace until 27 March 2020 to file a statement of case failing which the Respondent would be barred from taking any further part in the proceedings.
20. Once more, that date came and went. On 6 April Deputy Regional Judge Barlow directed that:

*The Respondent is therefore barred from taking any further part in these proceedings pursuant to Rule 9(8) of the Rules...*

21. On 6 April 2020 the Tribunal received an email from the Respondent in which he queried what the barring order meant and that he had '*done nothing wrong*'.

22. As a result, on 7 April 2020, Deputy Regional Judge Barlow issued a further direction as follows:

*If the Respondent wishes to participate in the proceedings he can apply to the Tribunal for the bar to be lifted pursuant to Rule 9(5)...*

23. As the direction made plain, the time limit for such an application is 28 days from the date of that order, namely 5 May 2020.

24. The hearing on 24 April 2020 took place remotely (due to the ongoing COVID-19 related health emergency), however, since the 28 day period provided for in the order of 7 April 2020 had not yet expired, the Tribunal adjourned the hearing to the next available date after 5 May 2020.

25. As at the date of this decision, no further communication has been received from the Respondent by the Tribunal.

26. At 2.00 p.m. on 6 May 2020, the Tribunal reconvened remotely (once more due to the ongoing COVID-19 related health emergency).

27. As a consequence of the Respondent's repeated default; in the face of repeated missed opportunities to rectify the position; and the order barring the Respondent from taking part, the Tribunal treats the case as one in which there is no response to the application. Accordingly, the Applicant is entitled to have her application dealt with summarily.

28. The Tribunal is satisfied on the evidence so that it is sure that the Applicant paid rent to the Defendant and/or his agents; and that the property was one which ought to have been licensed under the H&PA 2016.

29. Accordingly, the Tribunal is satisfied that an 'offence' under section 41 H&PA 2016 was committed by the Respondent. Namely, in the absence of an appropriate licence, the Respondent is in breach of section 95 Housing Act 2004:

*95 Offences in relation to licensing of houses under this Part*

*(1) A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.*

30. In the absence of any evidence from the Respondent, the Tribunal concludes that the whole of the rent for the period that the premises were let without the appropriate licence should be repaid.

31. The relevant licensing scheme commenced on the 1<sup>st</sup> August 2018. Therefore the Tribunal finds that the Applicant is entitled to a rent repayment order covering the period until termination of the tenancy on 23 May 2019 (a total of 9 months and 23 days), namely £6097.65, subject to a 'deduction' in relation to what appears to be unpaid rent, namely the agreed arrears of £472.60.

32. Therefore the Tribunal imposes a rent repayment order in the sum of £5625.05.

### **Right of appeal**

#### **Appeals in respect of decisions made by the FTT**

33. A written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

34. 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.
35. 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.
36. 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.
37. If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Judge Andrew McNamara

Mr. R Chumley Roberts MCIECH, J.P.