



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

Case Reference : **BIR/00GF/HS/2020/0001**

Property : **101 Blakemore, Brookside,
Telford, TF3 1PU**

Applicant : **Telford & Wrekin Council**

Respondent : **Mr P P Singh**

Type of Application : **Application under section 41(1) of the
Housing and Planning Act 2016 for rent
repayment orders**

Tribunal Members : **Judge M K Gandham
Mr R Chumley-Roberts MCIEH, JP**

**Date and venue of
Hearing** : **Paper Determination**

Date of Decision : **26 May 2020**

DECISION

Decision

1. The Tribunal orders Mr Pavitar Pal Singh to repay to Telford & Wrekin Council the sum of £587.12
2. The Tribunal orders, under Rule 13 (2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, that Mr Pavitar Pal Singh reimburse Telford & Wrekin Council the whole of the tribunal application fee, being the sum of £100.

Reasons for Decision

Introduction

3. By an Application, received by the Tribunal on 3rd February 2020, Telford and Wrekin Council ('the Applicant') applied for an order for the repayment of housing benefit, under section 41(1) of the Housing and Planning Act 2016 ('the Act'), in respect of the property known as 101 Blakemore, Brookside, Telford, TF3 1PU ('the Property'). The application was made against the owner of the Property, Mr Pavitar Pal Singh (also known as Pavitarpal Singh Chatha) ('the Respondent').
4. The Tribunal issued directions on 5th February 2020. In accordance with those Directions, the Tribunal received a statement and bundle of documents from the Applicant on 28th February 2020.
5. The Respondent's statement was due on 20th March. On 24th March 2020, the Tribunal wrote to the Respondent chasing the statement and advising that, unless it was received by 8th April 2020, the Respondent would be barred from taking any further part in the proceedings. The Respondent's son contacted the tribunal's offices on 26th March 2020 and stated that the Respondent would be sending in a statement of case by email. Despite the Tribunal writing to the Respondent again, on 9th April 2020, no submissions were received from him. Consequently, on 20th April 2020, the Respondent was barred from taking any further part in the proceedings.
6. Neither party requested an oral hearing.

The Law

7. Section 40 of the Act provides that a local housing authority may apply to the tribunal for a Rent Repayment Order (RRO) against a landlord for repayment of universal credit received in respect of a property. Section 51 of the Act confirms that any reference to universal credit includes housing benefit and that where a local authority applies for a rent repayment order in relation to housing benefit, a reference to "*rent*" in the Chapter includes any payment in respect of which housing benefit may be paid.

8. The relevant sections of the Act applicable to this matter are detailed below:

Section 41 of the Act provides:

41 Application for rent repayment order

- (1) *A ... local housing authority 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.*

...

- (3) *A local housing authority may apply for a rent repayment order only if—*
(a) *the offence relates to housing in the authority’s area, and*
(b) *the authority has complied with section 42.*

Section 42 of the Act provides:

42 Notice of intended proceedings

- (1) *Before applying for a rent repayment order a local housing authority must give the landlord a notice of intended proceedings.*

- (2) *A notice of intended proceedings must—*
(a) *inform the landlord that the authority is proposing to apply for a rent repayment order and explain why,*
(b) *state the amount that the authority seeks to recover, and*
(c) *invite the landlord to make representations within a period specified in the notice of not less than 28 days (“the notice period”).*

- (3) *The authority must consider any representations made during the notice period.*

- (4) *The authority must wait until the notice period has ended before applying for a rent repayment order.*

- (5) *A notice of intended proceedings may not be given after the end of the period of 12 months beginning with the day on which the landlord committed the offence to which it relates.*

Section 43 of the Act provides:

43 Making of rent repayment order

- (1) *The First-tier Tribunal may make a rent repayment order if satisfied, beyond reasonable doubt, that a landlord has committed an offence to which this Chapter applies (whether or not the landlord has been convicted).*

(2) A rent repayment order under this section may be made only on an application under section 41.

The relevant offences are detailed in the table in section 40(3) of the Act as follows:

	<i>Act</i>	<i>section</i>	<i>general description of offence</i>
1	Criminal Law Act 1977	section 6(1)	violence for securing entry
2	Protection from Eviction Act 1977	section 1(2), (3) or (3A)	eviction or harassment of occupiers
3	Housing Act 2004	section 30(1)	failure to comply with improvement notice
4		section 32(1)	failure to comply with prohibition order etc
5		section 72(1)	control or management of unlicensed HMO
6		section 95(1)	control or management of unlicensed house
7	This Act	section 21	breach of banning order

Section 45 of the Act provides:

45 Amount of order: local housing authorities

(1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 in favour of a local housing authority, the amount is to be determined in accordance with this section.

(2) The amount must relate to universal credit paid during the period mentioned in the table.

<i>In the order is made on the ground that the landlord has committed</i>	<i>the amount must relate to universal credit paid in respect of</i>
an offence mentioned in row 1 or 2 of the table in section 40(3)	the period of 12 months ending with the date of the offence
an offence mentioned in row 3, 4, 5, 6 or 7 of the table in section 40(3)	a period, not exceeding 12 months, during which the landlord was committing the offence

(3) The amount that the landlord may be required to repay in respect of a period must not exceed the amount of universal credit that the landlord received (directly or indirectly) in respect of rent under the tenancy for that period.

(4) In determining the amount the tribunal must, in particular, take into account—

(a) the conduct of the landlord,

(b) the financial circumstances of the landlord, and

(c) whether the landlord has at any time been convicted of an

offence to which this Chapter applies.

Section 46 of the Act provides:

46 Amount of order following conviction

- (1) Where the First-tier Tribunal decides to make a rent repayment order under section 43 and both of the following conditions are met, the amount is to be the maximum that the tribunal has power to order in accordance with section 44 or 45 (but disregarding subsection (4) of those sections).*
- (2) Condition 1 is that the order—
 - (a) is made against a landlord who has been convicted of the offence, or*
 - (b) is made against a landlord who has received a financial penalty in respect of the offence and is made at a time when there is no prospect of appeal against that penalty.**
- (3) Condition 2 is that the order is made—
 - (a) in favour of a tenant on the ground that the landlord has committed an offence mentioned in row 1, 2, 3, 4 or 7 of the table in section 40(3), or*
 - (b) in favour of a local housing authority.**
- (4) For the purposes of subsection (2)(b) there is “no prospect of appeal”, in relation to a penalty, when the period for appealing the penalty has expired and any appeal has been finally determined or withdrawn.*
- (5) Nothing in this section 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.*

Submissions

9. The Applicant provided a bundle which included a Statement of Reasons, a copy of an Improvement Notice dated 3rd September 2019 (‘the Improvement Notice’), a Notice of Intention to Issue a Civil Penalty dated 18th December 2019 – with an accompanying statement of reasons, a Notice of Intended Proceeding for a Rent Repayment Order dated 18th December 2019 (‘the RRO Notice’) and a Final Notice of Civil Penalty dated 27th January 2020 (‘the Final Notice’).
10. The Applicant stated that the Improvement Notice had been issued as the following hazards had been identified at the Property: Excess cold, Fire, Entry by intruders, Personal hygiene, sanitation and drainage and Electrical.
11. The Applicant stated that the Respondent had failed to comply with the Improvement Notice, committing an offence under section 30(1) of the

Housing Act 2004 ('the Offence'), between the period 2nd November 2019 and 2nd December 2019. During this period, the Applicant stated that it was making payments of housing benefit to the Respondent for two of the tenants residing there.

12. The Applicant confirmed that the Respondent was interviewed under caution on 26th November 2019, during which he admitted to the Offence. Following the interview, on 18th December 2019, the Applicant issued a Notice of Intention to Issue a Civil Penalty and the RRO Notice to the Respondent.
13. The Final Notice was issued on 27th January 2020 for a sum of £1000.00, reduced to £670.00 for prompt payment. The Applicant stated that the Respondent had contacted them following the service of the Final Notice to confirm that he would be making payment, thus accepting liability. The statement of reasons that accompanied the civil penalty notice, also referred to the fact that the Respondent had arranged a payment plan to pay the penalty in instalments.
14. The RRO Notice detailed the reason for it being issued and stated that the Applicant was seeking to recover a figure of £588.38. Although the Statement of Reasons in the bundle stated that the figure the Respondent was looking to recover was £509.20, the Respondent confirmed that this figure was incorrect and that the amount due was actually £586.32.
15. The Respondent provided to the Tribunal evidence of four payments of £294.19 made to the Respondent. These related to payments made for each of the two tenants for the period 1st November 2019 to 30th November 2019 and 1st December 2019 to 31st December 2019. The Applicant confirmed that the Offence was being committed over twenty-eight days in November 2019 and two days in December 2019.
16. The Applicant confirmed that they had not received any representations from the Respondent in reply to the RRO Notice.
17. In their Statement of Reasons, the Applicant also sought repayment of their application fee, a sum of £100.

The Tribunal's Deliberations

18. In reaching its determination the Tribunal considered the relevant law, in addition to all of the evidence submitted and briefly summarised above.
19. The Tribunal is satisfied that the Applicant complied with section 42 of the Act – the RRO Notice was issued in time, detailed the relevant information, no representations were received by the Respondent and the application was not made to the Tribunal until after the time for making any representations had passed.

20. Taking the evidence in to account the Tribunal determines that an order should be made.

The Order and the Amount to be Repaid

21. As the Respondent has received a financial penalty in respect of Offence, the time period for appealing the penalty has expired and the order is to be made in favour of a local housing authority; the amount to be repaid is the maximum that the Tribunal has the power to order in accordance with section 45 of the Act, disregarding those matters referred to in subsection (4). Accordingly, the Tribunal must make an order for the total amount of housing benefit paid to the Respondent during the period in which the Offence was being committed.
22. The Applicant had confirmed that the Offence was being committed for twenty-eight days in November and two days in December. The amount being paid in respect of each tenant per month was £294.19.
23. The Respondent received a sum of £274.58 per tenant in November (28/30 x £294.19) and £18.98 per tenant in December (2/31 x £294.19). As such, the total sum of housing benefit paid to the Respondent over the period in which he was committing the Offence was £587.12.
24. Therefore, the Tribunal determines that an amount of £587.12 is to be repaid by the Respondent to the Applicant.

Application under Rule 13

25. The Tribunal, under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, “*may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party...*” In this matter, the Applicant paid an application fee of £100.
26. The Tribunal notes that the Respondent failed to make any representations to the Applicant in relation to the RRO Notice and also failed to comply with the Tribunal’s directions, leading to him being barred from the proceedings.
27. As such, the Tribunal considers that it should exercise its discretion and orders that the Respondent reimburse to the Applicant the whole of the application fee, being a sum of £100.

Appeal Provisions

28. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

M. K. GANDHAM

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Judge M. K. Gandham