



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

**Case reference** : **LON/00AG/HMF/2021/0280**

**HMCTS code (paper, video, audio)** : **V: CVPREMOTE**

**Property** : **4 Lock Mews, London NW1 9AD**

**Applicant** : **Daniel Jamieson.**

**Representative** : **In person**

**Respondent** : **London Rooms (Alterna Limited)**

**Representative** : **In person**

**Type of application** : **Application for a Rent Repayment  
Order by tenant. Sections 40,41, & 44 of  
the Housing and Planning Act 2016**

**Tribunal members** : **Judge H Carr  
Mr A Fonka MCIEH**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **14<sup>th</sup> June 2022**

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## DECISION

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### **Covid-19 pandemic: description of hearing**

This has been a remote video hearing which has not been objected to by the parties. The form of remote hearing was **V: CVPREMOTE**. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents that the tribunal was referred to are in a bundle from the Applicant comprising 51 pages,. The tribunal has noted the contents.

### **Decision of the Tribunal**

1. **The Tribunal determines to make a Rent Repayment Order of £3,600.**
2. **The Tribunal determines to order the Respondent to reimburse the Applicant the application and hearing fees of £300 within 14 days of receipt of this decision.**

### **The application and procedural history**

3. The applicant made an application for a Rent Repayment Order on 25<sup>th</sup> November 2021. The applicant alleges that the landlord has committed the offence of illegal eviction under the Protection from Eviction Act 1977, s.1(2) and/or s.1(3).
4. In his application the applicant asked for a RRO in the sum of £3,600 for the period 3<sup>rd</sup> July to 2<sup>nd</sup> November 2021.
5. The Tribunal issued directions on 27<sup>th</sup> January 2022.

### **The hearing**

The hearing took place via video on 7th June 2022. The applicant appeared in person and represented himself. The respondent did not appear. The tribunal noted that the respondent had not engaged in the process from the issue of the application.

## **The issues**

6. The issues that require to be decided by the tribunal are:

(a) Is the tribunal satisfied beyond reasonable doubt that the Respondent committed an offence under the Protection from Eviction Act 1977?

(b) If the tribunal determines to make a Rent Repayment Order:-

- What is the applicable 12-month period?
- What is the maximum amount that can be ordered under s.44(3) of the Act?
- What account must be taken of the respective conduct of the applicants and the respondent and of the financial circumstances of the respondent?

## **The Law**

### **Protection from Eviction Act 1977**

#### **s.1 Unlawful eviction and harassment of occupier.**

(1) In this section “residential occupier”, in relation to any premises, means a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other person to recover possession of the premises.

(2) If any person unlawfully deprives the residential occupier of any premises of his occupation of the premises or any part thereof, or attempts to do so, he shall be guilty of an offence unless he proves that he believed, and had reasonable cause to believe, that the residential occupier had ceased to reside in the premises.

(3) If any person with intent to cause the residential occupier of any premises—

(a) to give up the occupation of the premises or any part thereof; or

(b) to refrain from exercising any right or pursuing any remedy in respect of the premises or part thereof;

does acts calculated to interfere with the peace or comfort of the residential occupier or members of his household, or persistently withdraws or withholds

services reasonably required for the occupation of the premises as a residence, he shall be guilty of an offence.

(3A) Subject to subsection (3B) below, the landlord of a residential occupier or an agent of the landlord shall be guilty of an offence if—

(a) he does acts likely to interfere with the peace or comfort of the residential occupier or members of his household, or (b) he persistently withdraws or withholds services reasonably required for the occupation of the premises in question as a residence, and (in either case) he knows, or has reasonable cause to believe, that that conduct is likely to cause the residential occupier to give up the occupation of the whole or part of the premises or to refrain from exercising any right or pursuing any remedy in respect of the whole or part of the premises.

(3B) A person shall not be guilty of an offence under subsection (3A) above if he proves that he had reasonable grounds for doing the acts or withdrawing or withholding the services in question.

(3C) In subsection (3A) above “landlord”, in relation to a residential occupier of any premises, means the person who, but for—

(a) the residential occupier’s right to remain in occupation of the premises, or

(b) a restriction on the person’s right to recover possession of the premises, would be entitled to occupation of the premises and any superior landlord under whom that person derives title.]

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding THE PRESCRIBED SUM or to imprisonment for a term not exceeding 6 months or to both;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.

(5) Nothing in this section shall be taken to prejudice any liability or remedy to which a person guilty of an offence thereunder may be subject in civil proceedings.

(6) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager or secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## **The background and chronology**

7. 4 Lock Mews is a large townhouse comprising 7 bedrooms (2 with ensuite) 3 bathrooms and a self-contained studio converted from the garage across three floors with an outdoor decking area at the back of the property, as

shown in the diagram provided by the applicant (s.7.1 of the bundle). There is also a garden room which is used occasionally by the owner of the premises.

8. The applicant entered into an agreement to rent room 6 at 4 Lock Mews on 18<sup>th</sup> March 2021. The agreement was for three months commencing on 4<sup>th</sup> April 2021 and terminating 3<sup>rd</sup> July 2021. The rent at the commencement of the agreement was £875 pcm.
9. The agreement is headed Tenancy but describes itself as a licence. The landlord is named as London Rooms. The applicant's understanding is that the freehold owner of the property had entered into a lease of the premises to London Rooms.
10. In June 2021 London Rooms contacted the applicant to enquire if he would like to renew his contract. On 7<sup>th</sup> June 2021, after attempting to negotiate about the rent and the term, the applicant entered into a new contract from 4<sup>th</sup> July 2021 until 3<sup>rd</sup> January 2022 at £900 pcm.
11. On 30<sup>th</sup> June all the tenants in the property received an eviction notice by email. The notice required the occupiers to vacate the property on 3<sup>rd</sup> of September 2021. The applicant, who wished to remain in the property, asked about the notice and was advised to call Daniel Webb of London Rooms who assured him on 1<sup>st</sup> July 2021 that they would 'see how it goes' and that perhaps he would be able to stay if he does not cause 'hassle'. The applicant believes that Daniel Webb is the director of London Rooms.
12. On 13<sup>th</sup> August 2021 London Rooms contacted the applicant asking him to confirm that he was leaving the property. The applicant told them that that under Covid restrictions on evictions the notice period for any eviction must be four months and therefore he should not be made to leave until four months from the initial eviction notice. This would mean a move out date of November 3<sup>rd</sup> 2021. At this stage the applicant was still hoping to negotiate to remain in the property.
13. On 14<sup>th</sup> September 2021 Camden Council conducted a full health and safety inspection of the property.
14. On 21<sup>st</sup> October 2021 London Rooms sent the applicant details about the checkout process to the applicant.

15. On 26<sup>th</sup> October 2021 the applicant found somewhere else he could rent. As it was not available until 15<sup>th</sup> November 2021 he asked to extend the current agreement until 20<sup>th</sup> November 2021. London Rooms refused saying that this was not possible as a new tenant was moving in to the room
16. On 28<sup>th</sup> October 2021 London Rooms emailed the applicant asking him to ensure that the room was vacant by 12 pm on the checkout date.
17. On 1<sup>st</sup> November 2021 Annie Ngundam, Tenancy Relations Officer from Camden Council, contacted London Rooms via email to advise them that the eviction process was invalid and that the applicant should be allowed to stay at the property for the remainder of his contract. As the applicant had already made arrangements to place his belongings into storage and stay with family abroad during the transition period, the advice from the council came too late.
18. On 2<sup>nd</sup> November 2021 London Rooms contacted the applicant in response to the letter from Camden Council to say that they were 'surprised' that the applicant has 'changed his mind about the moving out date. The applicant confirmed to them that due to their pressure he was already in the process of moving out as he believed he had no choice.

On 3<sup>rd</sup> November 2021 the applicant vacated the property at 12 pm as stipulated.  
**Did the Respondent commit the offence of Illegal eviction**

19. The applicant asserts that:
  - he is a tenant with an Assured Shorthold Tenancy
  - he had a fixed term agreement until 3<sup>rd</sup> January 2022
  - the agreement described as a licence is a sham
  - A notice was served on him on which did not comply with the statutory requirements which purported to terminate the agreement
  - He left the property against his will in compliance with the notice, modified by negotiation to reflect the four months' notice required by Covid regulations.

20. He produced a letter from Camden Council which stated its opinion that he was an Assured Shorthold Tenant.

### **The decision of the Tribunal**

21. The tribunal determines that the respondent committed the offence of illegal eviction under s. 1 (2) and harassment under s.1(3) of the Protection from Eviction Act.

### **The reasons for the decision of the Tribunal**

22. The tribunal has considered the agreements signed by the applicant and prepared by the landlord.
23. It notes that the agreement is headed Tenancy but describes itself as a licence and it purports to exclude the agreement from the protections of the Housing Act 1988.
24. In particular the agreement provides that the tenant can be moved from the room assigned to him.
25. The relevant provisions are at paragraph 2 of the agreement
26. This agreement is not intended to confer exclusive possession on the Licencee or to create the relationship of Landlord and tenant between the parties. The licencee shall not be entitled to a tenancy, or to an assured shorthold or assured tenancy or to any statutory security of tenure now or when this licence ends.
27. Further at paragraph 7 – The Licensee agrees to move into the Room at the premises at the commencement of the agreement but may be asked to move to another room at a later time if required to do so for good housing management practice.
28. It also notes the eviction notice which was sent by London Rooms on 30<sup>th</sup> June 2021. This notice is addressed to the applicant and states as follows:
29. The present letter is to hand you written notice to vacate the property 4 Lock Mews London NW1 9AD on the 3<sup>rd</sup> September 2021 this date not included. This termination of agreement is being executed as contractually agreed according to section 8.1b of the Licensees Agreement signed.

30. The notice then sets out the outstanding rent and apologises for the inconvenience.
31. There is no statutory information included in the notice.
32. The tribunal asked the applicant if he was ever required to move rooms or if he was aware of people being asked to move rooms. He told the tribunal that he had not been asked to move rooms.
33. The tribunal concluded that the agreement was an assured shorthold tenancy and any suggestion that it was a licence is a sham. Paragraphs 2 and 7 of the Agreement are clear attempts to avoid statutory provisions.
34. It agreed with the conclusions of LB Camden. Any attempt to evict the applicant which did not comply with the requirements of the Housing Act 1988 constitutes an offence under the Protection from Eviction Act 1977,
35. It also noted that even if it were a licence it was for a fixed term. Therefore any attempt to evict the applicant prior to the fixed term was an offence under the Protection from Eviction Act 1977,
36. In addition, even if the agreement were a licence, the required statutory information for the notice to comply with the Protection from Eviction Act 1977 was not included in the notice.
37. The tribunal determines beyond reasonable doubt that the respondent unlawfully deprived the applicant of his occupation of the premises and carried out acts with the intention of causing the applicant to give up his occupation of the premises.

### **What is the appropriate amount for the RRO?**

38. The applicable period for the RRO is the period from the commencement of the tenancy on 18<sup>th</sup> March 2021 until its termination on 3rd November 2021.
39. The applicant has claimed from 1<sup>st</sup> July 2021 until 2<sup>nd</sup> November 2021 that is for the four months from the service of the notice until the date he left the property. He explained to the tribunal that he felt happy in the premises until the service of the notice but from that time on he felt stressed and under pressure. He explained how difficult it was to find



accommodation that was affordable and the pressures he faced as time passed.

40. The tribunal therefore determines that the maximum amount for the RRO is £3,600. The amount claimed by the applicant.
41. The tribunal has to consider the conduct of the applicant and the respondent as part of its determination of the amount of the RRO. In this case there is no evidence from the respondent that the behaviour of the applicant was anything other than exemplary.
42. On the other hand the tribunal have some concerns about the behaviour of the landlord. Not only has it taken extensive steps to evade the statutory protections given to tenants, but it did also not heed the advice of the local authority. The seriousness of the offences is exacerbated by the pandemic when additional protections were implemented for tenants for very good reasons. In addition, the respondent raised the applicant's rent before a year had passed from the commencement of the tenancy in a further breach of statutory protections.
43. In addition the tribunal notes that (i) there is some indication that the eviction was in retaliation for one of the occupiers contacting the local authority and (ii) there appears to have been breaches of the landlord's HMO licence.
44. The applicant informed the tribunal that his rent was inclusive of utilities, broadband and council tax. However the respondent had provided no information about fulfilling its responsibilities in these matters. Nor indeed did it provide any information about its financial resources despite clear requirements to do so being set out in the directions.
45. The applicant told the tribunal that he had been put to additional costs as he had to store his belongings and travel to his family in Ireland to stay until the room he found became available to him,
46. In these circumstances the tribunal determines to award the applicant the full amount of his claim.

**Name:** Judge H Carr

Date: s 14<sup>th</sup>  
June 2022

### **RIGHTS OF APPEAL**

1. 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.
2. 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.
3. 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.
4. 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.

