FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AL/HMB/2021/0012**
HMCTS code	**:**	**CVPREMOTE**
Property	**:**	**96 Shooters Hill, London SE3 8RL**
Applicants	**:**	**Richard Spurge, Charlotte Greer Read, Natalie Bradford**
Representative	**:**	**In person/Richard Spurge**
Respondent	**:**	**Judith Faye Ashton and Byron Beck (joined as Respondent on 15th February 2021)**
Representative	**:**	**Maureen Ogbu, Reen Anderson Solicitors**
Type of application	**:**	**Rent repayment order: Housing and Planning Act 2016**
Tribunal member(s)	**:**	**Judge Hargreaves** **Tribunal Member Appollo Fonka, MCIEH CEnvH M.Sc**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of Hearing	**:**	**15th February 2022**
Date of decision	**:**	**24th February 2022**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing to which the parties consented. The form of remote hearing was CVPREMOTE. A face-to-face hearing was not held because it was not practicable. The documents to which the Tribunal was referred to are described in this decision. The parties said they were content with the hearing: in particular, the oral hearing was listed for 3 hours but took 5 and a half hours.

Decisions of the Tribunal

1. Byron Beck is joined as a co-respondent pursuant to Tribunal Rule 10 (as a co-registered proprietor of the relevant property and liable as a landlord under the provisions of the relevant legislation).
2. The Tribunal makes a rent repayment order in favour of Richard Spurge and Charlotte Greer Read in the sum of £4532 (or £2266 each).
3. The Tribunal makes a rent repayment order in favour of Natalie Bradford in the sum of £4066.
4. The Tribunal refuses the application for an order that the Respondents reimburse the Applicants' payment of Tribunal fees.
5. The payments shall be made by 5pm 24th March 2022.

REASONS

1. In this decision we refer to the bundles provided by the parties prior to the hearing. Both parties went into detailed factual allegations against each other which greatly increased the amount of documentation supplied to the Tribunal, some of it immediately prior to the hearing, despite the clarity of the directions previously issued. We have decided that we do not have to make decisions on each and every factual allegation made by the parties against each other in order to reach a proper decision on these applications. To do so the hearing would have exceeded its allotted 3 hours many times over, and as it was, we allowed the parties to present their cases over 5 and a half hours.

2. The Applicants (who ran their applications together) provided a first hearing bundle of over 100 pages. The page numbers we give are the e-page numbers rather than those on any particular document, for ease of reference where that is appropriate. The Respondents' bundle reached 275 pages. The Applicants' evidence in reply (which was far from brief as had been directed) exceeds another 100 pages. Much of the content of this bundle was, putting it bluntly, designed to have a major impact on the credibility of the Respondents and to challenge virtually every fact or allegation they made. It includes matter such as a transcript between Mr Spurge and a Shelter adviser (which we have not read) and detailed rebuttals of the evidence put forward by the Respondents to support the Applicants' case that the Respondents provided false evidence and should be made guilty of contempt of court. It includes comments on the Respondents' assets and earnings. There is an air of character assassination in some of the evidence put before the Tribunal and we emphasise that we note it, but choose not to delve into it or make findings on anything more than is relevant.

3. In the context of the bitterness and anger displayed by the Applicants' allegations, we record our gratitude to the Applicants' positive response to our suggestion that they choose not to cross-examine Flossie Ashton, with whom some of them had been at school and had had close friendships. We heard from Mr Spurge, Ms Ashton and Mr Beck who gave oral evidence. A vast amount of evidence and witness statements have been provided on both sides which are not required.

4. References to the Applicants' bundle are described as A[page number], the Respondents' bundle as R[page number] and the Applicants' Reply bundles as AR[page number]. Directions were given on 28th October 2021 at A[38-44].

5. The Applicants made further applications at the start of the hearing which we dealt with as follows. We refused their application to introduce expert evidence on various statutory provisions on the grounds of relevance, time, cost and disproportionate use (and future use) of Tribunal and party resources. We refused their application to join Flossie Ashton as a Respondent on the grounds that she is not a landlord. To be clear, had we been compelled to join her for any reason pursuant to Tribunal Rule 10, we would not (in the exercise of our discretion) have made a rent repayment order against her. The Applicants also wanted various technical assurances about security and the downloading by the Tribunal of video evidence which had been submitted: we did not give these assurances and this application was not pursued. We are far from convinced that we could give the assurances had we understood the Applicants' concerns. The videos were filed with the Tribunal and we looked at them. They were videos of the interior of the property used to demonstrate its condition.

6. The critical documents include the following. Three identical applications were made on 15th August 2021: see A[6-35]. The Applicants claim a rent repayment order for the period 7th May 2020-6th May 2021. There is no dispute that in that period Mr Spurge and Ms Greer Read paid £900 pcm including bills for a double room, and Ms Bradford paid £700 pcm for a single room including bills. We have awarded them 60% of the rents they paid for reasons we will explain, less deductions for certain expenses which the Respondents discharged out of the rents received. They all left on 6th May 2021, Mr Spurge and Ms Greer Read having moved in on 29th April 2018, and Ms Bradford having moved in over a year later on 15th June 2019.

7. We do not consider it necessary to determine whether the Applicants were tenants or lodgers or licensees because it does not affect our calculations. The Applicants were concerned throughout to argue that they had always been tenants but clearly never had exclusive possession of certain essential living accommodation which they shared with members of the Respondents' family. At about the time they left (for example), Ms Ashton was intending to regain use of one

of the bedrooms for her own use (their main residence seems to be in Cumbria, but she had been made redundant as head of a sixth form in 2020 and intended to visit London more frequently). The Applicants cited no authority or statutory provisions. We note for the purposes of the *Protection from Eviction Act 1977 (PEA)* (see below) that the protection of that statute extends to "residential occupiers". For the purposes of the *Housing and Planning Act 2016 (HPA)* (see below) a "tenancy" includes "a licence" (see *s56 HPA 2016*). The protection given in terms of rent repayment orders is therefore to a flexible class of occupier which clearly includes the Applicants, who never signed any written contracts, received any AST notices, or paid any deposits. Their relationship with the Respondents was far removed from the standard London letting experience: it was based on friendship ties, which were to a certain extent, relied on and exploited by both sides.

8. 96 Shooters Hill is a substantial property with a separate basement flat which does not affect this application save for the practical complication that the boiler was in the basement, as was the gas meter. The parties occupied various parts of the remaining three floors, having their own bedrooms (out of 5 overall) but shared use of living room, hallways, kitchen and bathrooms, rear balcony adjacent to the kitchen, and garden. Flossie Aston (so called to distinguish from her mother, the first Respondent), the Respondents' daughter, was in occupation throughout the period set out above. Others came and went, including Lou-Lou Ashton during the pandemic. Flossie Ashton had been at boarding school with Ms Bradford and Ms Greer Read. Richard Spurge was at the same school but a few years older and not a direct contemporary or friend of Flossie Ashton. He was however in a relationship with Ms Greer Read at the beginning of the story. This is a tale of good intentions and friendships which has ended very badly.

9. The applications were supplemented by a letter dated 15th August 2021 at A[7-8]. The grounds relied upon for the purpose of *s40 HPA* were not set out clearly in panel 9 of the application forms (see eg A[13]) but as summarised were (i) a breach of *s72(1) Housing Act 1974 ("HA")* in that the Respondents were in control or management of an unlicensed HMO (ii) eviction and harassment of the Applicants as "residential occupiers" in breach of *ss1(2)(3)(3A) PEA*.

10. Putting it briefly, before the Applicants moved out on 6th May 2021, they informed London Borough of Greenwich ("LBG") about the Respondents' breach of the HMO regulations. The Respondents were always aware of the breach as Mrs Ashton's evidence is that they told the Applicants about non-compliance with HMO licensing at the outset. We deal further with this below. The Respondents also contacted LBG about the HMO licensing situation and the upshot is that before the end of 2021 each of the Respondents was charged a civil penalty of £5000 and their daughter Flossie received a civil penalty of £2500 for her part in collecting the rents payable by the

Applicants (which for various family reasons had been paid into her bank account). Notice of intent was issued by LBG in October 2021. The Respondents and Flossie took advantage of the 50% reduction offered for prompt payment so paid LBG £6250.

11. In the circumstances we are satisfied beyond a reasonable doubt pursuant to *ss40-41 HPA* that the Respondents committed an offence in relation to control or management of an HMO. The Respondents admit the breach (and did so orally by Ms Ogbu at the hearing for the avoidance of doubt) and we have the benefit of LBG evidence in the form of a witness statement by Rachel Weir of the LBG HMO team, dated 18th November 2021 at A[61-75]. Her evidence is that the Applicants contacted LBG about the HMO breach on 22nd March 2021. See R[4-5].

12. The Applicants expanded their application in their summary at A[45-56]. Their supporting documents are at A[57-113].

13. Key dates emerge from the Applicants' evidence. At the beginning of 2020 the Applicants' rents had been increased. They were less than enthusiastic but it was the first time the Respondents had increased the rents since 2017, and the increase was due to utility prices (see eg A[82-84]). This is outside the period we are dealing with. There is no dispute that Mr Spurge and Ms Greer Read had lived in the property rent free for four months after they moved in except for a joint £100 contribution to bills, and had therefore been treated generously at the outset.

14. On 7th March 2021 Ms Ashton sent an email to Mr Spurge and Ms Bradford, which is at A[84]. It attached a copy of a "lodger's agreement" which is at A[76] and A[79]. Because the Applicants rely on this email and the provision of a draft "lodger's agreement" in relation to their *PEA* grounds, we have to set the email out in full. It reads:-

    "Dear Richard and Natalie,

    Please find attached your lodger's contract for you to sign. Please keep a copy for yourself and return a signed copy to me at this email address.

    As you know, circumstances have changed and I am now retired and living in the UK permanently. My son, John, has made the decision to live in Cumbria and therefore will not be returning to the house for the foreseeable future. I wish to inform you that I will be taking the small bedroom and will be staying at the house intermittently throughout the year. The small bedroom will therefore be kept for my use.

    Please take the time to read the contract thoroughly as we have gone into detail on the usage of the house.

It is a pleasure to have you living in the house, and we have always found you to be pleasant and reliable lodgers. We are putting contracts in place to formalise your tenancy as lodgers and this will protect you as well as ourselves. Please note that the notice period on your part remains one month and we will not be tying you into a twelve month contract. If you are not happy with the contract we will accept your notice, although we hope this will not be the case

Kind regards,
Faye."

15. This was received extremely badly by the Applicants for reasons that are hard to fathom, except Mr Spurge was adamant that the effect of signing the agreement would be to downgrade their status as tenants to lodgers. It was sent, Ms Ashton explained in evidence, because her daughter Lou-Lou had found herself "intimidated" by the occupation of shared space in the kitchen and bathrooms by Mr Spurge and Ms Greer Read. She said as a head teacher (of a sixth form) for many years she regarded the reports of behavioural conflict in the house as tantamount to "teenage squabbling" which needed sorting out and that was the point of the lodger's agreement, to make clear spatial limits. We should say at this stage that we found Ms Ashton to be a wholly frank, credible and compelling witness. Whereas Mr Beck gave evidence on the "finances" as it were, Ms Ashton had known her daughter's school friends for many years and through her we got a very good idea of how the beginning and end situations came about. Where there is any conflict or doubt, we prefer Ms Ashton's evidence.

16. The day after sending the email of 7th March, Ms Ashton notified Mr Spurge and Ms Bradford that "additional sofas" would be arriving (emails 7th, 12th March at A[85]). Mr Spurge inquired about the safety labels on the sofas. Ms Ashton made an emollient response and added *"Again may I say that while we would be very sorry to lose you as lodgers if you find our arrangements do not suit you please do not feel that you are tied in to staying in the house."* See A[85-86].

17. The Applicants responded in detail in a lengthy email dated 17th March 2021 (A[87]) which thanked the Respondents for a new carpet, raised many issues about the sofas' possible (non)-compliance with UK regulations and explained (second paragraph) why they would not be signing the lodger's agreements. They then listed a series of problems with the house and said they had been an issue since they had moved in and now required *"suitable and swift resolution"*. The Respondents arguably responded in kind reminding the Applicants that they too had certain obligations and it seems that battle lines were being drawn up: see the Respondents' email 19th March at A[88]. In short, the emails become a classic of the passive-aggressive genre. See A[89-95]. This correspondence establishes that the Respondents were in contact with British Gas, flame retardant

upholsterers (Appleclean), and a company (Salvuum) to check for asbestos on the balcony – in response to Mr Spurge's requests.

18. Mr Spurge summarised his position further in an email of 16th April 2021 at A[96]. Ms Ashton regarded this email as *"provocative"* (see R[10]. He criticised the 2020 rent increases, maintenance of the property and asked for assurances. He did not inform the Respondents that by then the Applicants had contacted LBG about the house. Ms Ashton responded in an email dated 16th April 2021 which the Applicants again rely on in relation to the *PEA* at A[97], which states

    "Good afternoon Richard, Charlotte and Natalie
    The swift resolution that you have asked for is entirely in your own hands. As you do not like the condition of the house and the rent you have been paying we suggest that you leave. In fact, having spoken to our solicitor about the matter and having informed LBG of the situation in the house we have decided to give you 28 days notice with immediate effect."

19. That would expire on or about 14th May. The Applicants decided to leave and the first intimation of that for the Respondents was when Ms Ashton was asked for a reference on or about 28th April. Ms Ashton said she would treat the Applicants as giving notice to expire on 6th May or charge for the additional week (though she had given notice and quite why she expected the Applicants to give notice themselves we put down to not being a property lawyer: it makes little difference). Whether or not the notice could be enforced due to Covid regulations or not having an HMO licence is dubious, but the Applicants did decide to leave after receipt of the email dated 16th April. We conclude on the basis of the evidence read and heard that they did this of their own free will. The Applicants are demonstrably capable of making their own decisions and decided to leave despite the evidence that the Respondents were engaging with tackling the issues raised by Mr Spurge. We do not consider it assists to detail the remaining email chain which continues along the same lines, with the Respondents arranging various people to attend the property to attend to various issues requested by Mr Spurge, the Applicants letting them in, and an exchange about leaving bedrooms etc tidy and removing all possessions and leaving on 6th May. The day before that on 5th May, Rachel Weir inspected the property to the consternation of at least one other occupant who was surprised by her unannounced presence. The Respondents were not informed of this visit.

20. The Applicants say at A[47] that this was a *"revenge eviction in direct response for a request for repairs and remedial action actions relating to safety. To further this, a section 21 notice was not provided which would have been expected by the default [AST] status owing to the fact that the Landlords had never lived at the property throughout our tenancy."* At A[45] the Applicants *"also add that the landlords harassed us through (i) a request to sign a*

lodger's agreement, diminishing our rights as tenants (ii) the lack of repairs and remedial actions to safety and comfort concerns within the property (iii) unlawful eviction without the use of a s21 notice".

21. As we indicated above, this is a story with a bad ending. The phrase *"revenge eviction"* is, for example, an extreme allegation in the circumstances of this case and we reject it. It transpired when inviting submissions at the end of the hearing that the Applicants were not familiar with the specific provisions of the *PEA* on which they were relying, yet they are extremely serious allegations to make. It is unfair to regard these applications as pro forma applications without understanding the relevant law.

22. The Respondents' account is set out in detail, really by way of mitigation and context, at their bundle R. As indicated, they accept the HMO allegation but strongly deny the *PEA* allegation.

23. Towards the end of 2018 the Respondents had engaged at length with attempting to obtain an HMO licence (see generally R[22-53, 267]). To go into the detail of why they failed (they were not rejected as such, simply failed or gave up on the attempt) would take too much time, but it was an unhappy example of contact with a local authority which seemed to change goal posts constantly. In the end the Respondents gave up and gave notice to two lodgers. At the same time Mr Spurge and Ms Greer Read were notifed of the HMO problems explicitly on 8th October 2018, just after they had been in the house for 4 months (rent free) and were also given notice to leave: R[7]. They chose to stay on the terms, we find, set out by the Respondents at R[7-8]. In other words, we accept the Respondents' evidence that Mr Spurge and Ms Greer Read moved into the house at the request of Flossie, who knew Ms Greer Read. Ms Bradford moved in over a year later on the same terms. On the one hand, as Ms Ashton said in oral evidence, she said "yes" to Flossie's request that Mr Spurge and Ms Greer Read move in because so far as she was concerned they "had no money, no jobs and no home" and were friends of Flossie's. They moved in and stayed on as family friends. This does not excuse the Respondents' breach, but it is important context. Ms Ashton was not challenged on this evidence.

24. As to the list of defects relied upon by the Applicants, the Respondents' account is set out in detail at R[17-21]. We accept the Respondents' evidence that the complaints were raised after they sent out the draft lodger's contracts and that, in short, the Respondents were dealing with them as requested and had started to do so, if not immediately, certainly weeks before the Applicants left on 6th May. Although Mr Spurge had criticised the condition of the property in January 2020 when the rents were increased, none of the defects were specified as they were after 7th March and he did not pursue anything in writing. We consider the Respondents' response and their explanations, in writing and in Ms Ashton's oral evidence in response to Mr Spurge's cross-examination, to be responsible,

responsive and reasonable. As Ms Ashton candidly admits, she had visited the property about twice in the relevant years, and had noticed that the carpet needed replacing so it was. The cooker was replaced when necessary. The bath was the original, has been re-enamelled once and probably needed re-doing. A plastic shower curtain was the only feasible curtain given the bath was a roll-top. No-one ever complained about the shower until later. Overall, the property was in need of painting and decorating. The boiler would not switch off and much as it raises eyebrows, having found Ms Ashton to be a credible witness, we accept her account that British Gas, despite replacing the control panel, were not able (over the relevant period) to diagnose and cure the reason why the boiler would not switch off. So the heating was always on, which has a costs consequence (see below). The Respondents, apart from failing to regularise the HMO situation, did not strike us as irresponsible landlords: their own daughter lived in the property (at various times so did her brother and sister), and apart from the occupants of the basement, the occupiers were friends and acquaintances from school. The Applicants admitted that, as alleged by the Respondents, they had enjoyed living in the property, with off street parking, a large garden, parties and an on-site social life.

25. In addition to highlighting some of the main factual or key dates, Mr Beck provided some essential tables and explanations at R[238-241] in terms of running costs which the Respondents argued should be deducted from any order made. Mr Beck is a geophysicist and provided a methodology which could have been simpler and which prompted the Applicants to respond at great length with competing methodologies which, in the event, we do not have to unpick at any great length.

26. No authorities were cited to the Tribunal but we consider the approach of the Upper Tribunal in *Ficcara v James* [2021] UKUT 38 (LC); *Vadamalayan v Stewart* [2020] UKUT 183 (LC); *Williams v Parmar* [2021] UKUT 244 (LC).

27. We consider first whether, in addition to the HMO breach, the Respondents committed an offence in being in breach of *s1(2)(3) or (3A) PEA 1977*. The sections provide as follows:-

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.

*[**F1**(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.

28. There was no attempt to unlawfully deprive the Applicants of their occupation of their bedrooms or the rest of the property: they left of their own accord on 6th May when the Respondents were plainly nowhere in the vicinity: therefore there was no breach of *s1(2)*.

29. We also reject the allegation that there was a breach of *s1(3)*. The Respondents wanted to regularise relationships and keep the Applicants in the property. The Applicants rejected the offered terms on the basis that they were unsatisfactory as opposed to being a regularisation of the existing situation. No existing services were withdrawn by the Respondents in an effort to persuade the Respondents to leave. To the contrary, the evidence is that the Respondents were attempting to meet the Applicants' requests when they left. We reject the allegation that the email of 7th March containing the lodger's contracts could be construed as or did in fact amount to an attempt to cause the Applicants to leave or interfere with their peace or comfort. A previously cordial relationship broke down: that does not amount to a breach of *s1(3)*. For the same reasons there was no harassment pursuant to *s1(3A)*. Basically, the Applicants were told they could leave if they did not like the regularisation of terms they were offered, and they left. Far from the

Respondents being guilty of a "revenge eviction", it was the Applicants who arguably left on vengeful terms, having delivered the Respondents up to LBG on the eve of their departure. On the facts before us the Applicants have failed to prove a breach of the *PEA* restrictions beyond reasonable doubt. We should add that the cross-examination of Ms Ashton focused on the defects in the property rather than establishing an intent to evict. An example of the weakness of the Applicants' case is that Mr Spurge sought to argue that the Respondents' lack of repair amounted to harassment: not on the facts of this case.

30. The next question therefore is whether we exercise our discretion to make an order pursuant to *s43 HPA 2016*. In our judgment it is right to make an order. The Respondents knew they were in breach of the HMO legislation and though we can understand why they never thought the situation would come to this in the circumstances in which the Applicants came to live in the house, they gambled on the breach being forgiven or ignored, when there is a clear financial penalty at stake.

31. Moving on to the amount which should be ordered, the relevant amounts paid by the Applicants in the 12 months claimed are £10,800 (Spurge and Greer Read) and £8400 (Bradford). They seek repayments of the full amount. There is little guidance and we consider the facts of this case to be unusual. We do not consider that repayment in the full amount is justified. We consider that an appropriate starting point is that the Applicants should be repaid 60% of their rent (£6480 and £5040 respectively).

32. We then consider deducting amounts for utilities which were included in the rent, using Mr Beck's table at R[238]. The Applicants agreed the following deductions which Mr Beck calculated as attributable to the Applicants' share (electricity being agreed in the course of oral evidence by Mr Spurge after he had to concede that his methodology had omitted the standing charge and 5% VAT, the parties only being £60 apart to start with):-

    Gardener £180
    Cleaner £630
    Cleaning agency £144
    Internet £210.40
    Electricity £490 (rounded up by a few pence)
    Water £416.66
    TV licence £94.50

33. Mr Beck calculated that £1262.27 should be calculated for the Applicants' share of the gas bill, the heating and hot water being heated by gas but during the period, by a boiler which could not be switched off and a meter which recorded the usage of the upper floors and the basement flat. Mr Beck used actual meter readings as he explained at R[239-241] but we consider that the problem with the

boiler meant – in all probability – the likelihood that everyone was overcharged for a considerable period. The parties were at odds over the discount for the basement flat and the fact that the boiler was on all the time. We have to do the best we can and we adopt a non-scientific approach and apply a 40% (rounded up to £505) deduction to Mr Beck's figures (which we agree provide a reasonable starting position), which reduces the gas share for the Applicants to £757 (rounded down by a few pence).

34. The total available deductions for utilities is therefore (rounded down) £2922. One third each is £974.

35. In considering our final order, we can disregard the factors set out in *s44(4)(b)(c)*. The Respondents raised no argument on their financial circumstances (except to point out the LBG civil penalty) and they were not convicted of any offence. Our approach is therefore governed by what we can take into account in respect of the conduct of the Respondents and the Applicants pursuant to *s44(4)(a) HPA*. That gives us a broad discretion on the facts of this case.

36. We have already indicated that in our judgment the conduct of the Respondents which is relevant includes the following:-

    (i) their original generosity to Mr Spurge and Ms Greer Read;
    (ii) the friendship of their daughter with the Applicants and the informal basis on which the household operated;
    (iii) their gamble on being in breach of the HMO regulations;
    (iv) matched by their 2018 attempt (on which they gave up) to obtain a licence and their consequent change of plans for the house, which they explained to the Applicants;
    (v) their own contact with LBG before the Applicants left and the fact that they have not sought to claim the indulgence of the Tribunal for their failure in relation to the HMO;
    (vi) the fact that when Mr Spurge listed the matters which he was concerned about, they took action;
    (vii) a reasonable expectation that the Applicants would sign a contract to regularise their occupancy particularly in the context of Ms Ashton wishing to have a room for her own use in the property.

37. The conduct of the Applicants which we consider to be relevant includes these factors:-

    (i) they (Mr Spurge and Ms Greer Read) were housed by the Respondents at the request of Flossie Ashton for free for four months initially apart from a contribution of £100 which was a considerable benefit to them (on any view over £2000 worth at least);
    (ii) they all knew the house lacked an HMO from 2018 at the latest and stayed on without protest;

(iii) they produced a long list of issues to be attended to in response to the letter of 7th March;
(iv) they did not inform the Respondents when they were leaving despite what had been friendship ties;
(v) they did not inform the Respondents they had notified LBG after the letter of 7th March was received;
(vi) the behaviour of Mr Spurge and Ms Greer Read was considered enough to make Ms Ashton (whose evidence we accept) consider some regularisation of space and behaviour was required;
(vii) their allegations against the Respondents were serious and in respect of the *PEA* allegations, extremely serious and made with no real thought of making them out: the idea that this was a "revenge eviction" was excessive;
(viii) their refusal to sign the lodger's agreement was based on arguments about their rights which they did not substantiate by reference to law or authority;
(ix) they behaved unreasonably after 7th March and escalated a dispute into a Tribunal hearing which generated over 500 pages of paper.

38. On balance therefore we conclude that the Applicants' behaviour justifies our reducing the rent to 60%. Deducting 2x£974 in respect of Mr Spurge and Ms Greer Read from £6480 and £974 for Ms Bradford from £5040 provides the repayment figures we set out in the directions. On this basis we see no reason to award more to the Applicants by ordering repayment of Tribunal fees as well.

Judge Hargreaves
Tribunal Member Appollo Fonka, MCIEH CEnvH M.Sc

24th February 2022

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

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