



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

**Case Reference** : **MAN/00BY/HMG/2019/0009**

**Property** : **Flat 25, 9 Cornwallis Street,  
Liverpool L1 5EL**

**Applicant** : **Laura Bruni**

**Respondent** : **Stacey Lee Jones**

**Type of Application** : **Rent Repayment Order**

**Tribunal Members** : **A M Davies, LLB  
J Jacobs, MRICS**

**Date of Determination** : **19 September 2019**

**Date of Decision** : **2 October 2019**

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**DECISION**

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**DECISION:** The Respondent is ordered to repay rent to the Applicant in the sum of £640, and to reimburse the Applicant the £100 Tribunal application fee.

## **REASONS**

### **BACKGROUND**

1. On 4 May 2018 the Applicant took a 12 month tenancy of the Respondent's flat at 25, 9 Cornwallis Street, Liverpool ("the Property") at a rent of £640 per month. She vacated the Property in May 2019.
2. The Property formed part of a converted Victorian schoolhouse. It was let furnished. It had single glazed windows and 3 exterior walls. It was viewed by the Applicant before she decided to rent it.
3. Throughout the tenancy the Property was within an area of Liverpool to which mandatory private landlord licence requirements applied.
4. The Applicant found the Property cold. She applied to Liverpool City Council which issued an improvement notice to the Respondent on 16 January 2019, the hazards being "excess cold" and "fire". The fire hazard related to a self-closer on the door to the Property that did not shut it correctly.

### **THE LAW**

5. Section 41 of the Housing and Planning Act 2016 ("the Act") enables a tenant to apply to this Tribunal for an order for repayment of rent by a person who has committed any of the offences listed at section 40 of the Act, including the control or management of an unlicensed house and failure to comply with the requirements of an improvement notice. The Tribunal has a discretion whether to make a rent repayment order.
6. Section 44 of the Act sets out the basis on which any repayment of rent is to be calculated. The amount may not exceed the amount of rent paid in the period, not exceeding 12 months, during which the offence was being committed. In determining the amount, the Tribunal must "in particular" take into account the conduct of the landlord and the tenant, the financial circumstances of the landlord, and whether the landlord has been convicted of the offence. Other relevant circumstances may be taken into account.

### **THE OFFENCE**

7. The Respondent applied for a licence for the Property on 17 January 2019 and a licence was issued on 8 February 2019. The Property was not previously licensed, and it is common ground that an offence was committed throughout the 9 months between 4 May 2018 and 8 February 2019. The Applicant has not been convicted of this offence.

8. The Respondent did not comply with the improvement notice from 16 January 2019 until after the end of the tenancy. However a landlord is allowed time for compliance, and in this instance the time allowed expired on 30 June 2019. It follows that during the tenancy the Respondent was not guilty of failure to comply with an improvement notice.

#### THE PARTIES' CASES

9. The Applicant made many complaints to the Respondent about the Property during the tenancy. The relevant complaints for this purpose relate to the Property being difficult to heat effectively with the electric panel heaters provided by the company that carried out the conversion. It appears that there was also (through no fault of the Respondent) inadequate insulation in the building, and that the windows were single-glazed timber framed windows. Had the Respondent applied for a licence at the appropriate time, the heating issue is likely to have been identified on inspection and rectified during the tenancy.
10. The Respondent refers to personal difficulties she was having at the time, and her efforts to respond as a good landlord to the various complaints of the Applicant, most of which did not relate to cold. She gives no explanation of her failure to apply for a licence when first arranging to let the Property. She owned another flat in the same building, also let, which was also unlicensed. Her statement to the Tribunal suggests that she was simply unaware of the licensing requirement and that on becoming aware, she applied immediately.
11. The Respondent says that the Applicant failed to use the heating facilities in the Property to their maximum effect, and disputes the Council's finding that there was no heater in the bathroom. After issue of the improvement notice she provided an additional heater in the bedroom. She also promptly consulted a heating engineer and was advised to install a new meter and 3 Quantum storage heaters. She was unable to install the meter until the Applicant left the Property, when the electricity account was transferred back to her. After some delays by the electricity company, the required work to the heating was carried out during the summer of 2019.

#### FINDINGS

12. The Tribunal finds that an offence was committed, namely that the Property was unlicensed from 4 May 2018 to 8 February 2019, and that it is appropriate to make a rent repayment order.
13. Failure to obtain a licence before letting the Property had the result that the Property did not meet modern heating standards during the tenancy. In the circumstances it is appropriate to order a reduced rent repayment of £640. The Respondent is also ordered to reimburse the Applicant with the Tribunal application fee of £100.

14. The Respondent states that her financial situation does not enable her to make a substantial single payment. The Applicant's representatives have indicated that if necessary they would accept an instalment plan and it is to be hoped that a suitable arrangement can be agreed.

Tribunal Judge AM Davies  
2 October 2019