



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

Case Reference : CHI/29UN/HMB/2021/0002

Property : Flat 3, 73 High Street, Ramsgate CT11 9RJ

Applicant : Mr Jack Stephens (Lead Tenant)
Julie Farrell

Representative :

Respondent : Mr Fanel Valentin Tanase

Representative :

Type of Application : Application for a rent repayment order by
Tenant
Sections 40, 41, 42, 43 & 45 of the Housing
and Planning Act 2016

Tribunal Member : Judge D R Whitney
Mr M Woodrow MRICS
Mrs J Dalal

Date of Hearing : 11th June 2021

Date of Decision : 30 June 2021

DECISION

Background

1. On 18 March 2021 the Tribunal received an application under section 41 of the Housing and Planning Act 2016 (the Act) from the Applicant tenant for a rent repayment order (RRO) against the Respondent landlord. The amount claimed is £6,000 for the period of 12 months ended 29 May 2020.
2. The Applicants state that they were occupying the property under an assured shorthold tenancy which commenced on 2 December 2018.
3. The Applicants produced a witness statement from Ms Lisa Marie Richardson, Housing Improvement Officer for Thanet District Council who states that on 25 January 2021 the Respondent was convicted of an offence of unlawful eviction of the Applicants on 28 May 2020 contrary to section 1(2) Protection from Eviction Act 1977. The Respondent pleaded guilty and was sentenced on 30 March 2021 to a community order to carry out unpaid work for 160 hours within the next 12 months. Ms Richardson produced a Memorandum of Entry in the Register of the East Kent Magistrates' Court for 30 March 2021.
4. Directions were issued on 12th May 2021 setting out the timetable for the Tribunal. The directions pointed out that at the hearing the Tribunal will decide (a) whether to make a rent repayment order and, if so, (b) in view of the Respondent's conviction under section 1(2) of the Protection from Eviction Act 1977 the Tribunal is obliged to order the maximum amount (£6,000) unless there are exceptional circumstances.
5. Within this decision references in brackets [] are to pages within the hearing bundle.

The Law

6. The relevant law is contained within the Housing and Planning Act 2016 ("the Act"). The relevant sections are set out in Annex A.

Hearing

7. The below sets out the salient and important parts of the half day hearing of this matter. It is not a transcript of the hearing but focusses on those matters which the Tribunal has determined have been most relevant in reaching its determination.
8. The hearing took place by video CVP. All parties were able to see and hear and were advised at the start that the proceedings were being recorded. At the conclusion both parties confirmed they had been given opportunity to make any statements they wished to make.
9. The hearing was attended by Mr Stephens and the Respondent. Mr Stephens had produced in advance of the hearing a written authority

allowing him to represent his partner Ms Farrell. He explained she was elsewhere in the house looking after their child.

10. Mr Tanase explained that he had not filed any documents as he had only become aware of the application at the start of the week. He explained he did not routinely look at his emails. He confirmed he was happy to proceed, he just wanted matters dealt with once and for all.
11. He explained he agreed he had been prosecuted and as far as he was aware punished. He accepted the memorandum of conviction [44] was correct. He further accepted that the Applicants had paid to him £6,000 in rent as set out in the Application although they were meant to pay on the 1st day of each month and generally their payments were not made until about the 15th of each month.
12. Mr Stephens relied upon his application as set out in the bundle. Mr Tanase had no questions of him.
13. Mr Stephens confirmed to the Tribunal he had not received Universal credit during the period of occupation. He explained that the last payment towards the rent they made was in March 2020 but Mr Tanase had agreed they could use their deposit for their last months rent. He thinks they moved out temporarily on 1st May 2020 and were to return on 28th May 2020.
14. Mr Tanase then presented his case.
15. He agreed that he had agreed with the Applicants to use the deposit towards rent. He had asked them to move out as he was told he needed to do work to the flat due to the low EPC rating. He agreed he did not let them move back in at the end of May as he was carrying out building works.
16. Mr Tanase confirmed he had taken legal advice before pleading guilty to the offence. He confirmed he understood what the Applicants were seeking in respect of this application but he felt he was being punished twice.
17. He confirmed he was happy for the Tribunal decision to be emailed to him and would keep an eye on his emails. The Tribunal stated it would aim to get the advice out to all parties within 4 weeks of the date of the hearing.

Decision

18. The Tribunal thanks all parties for their assistance and to the Respondent for attending given the circumstances. The Tribunal has considered carefully all of the documents within the bundle and the oral evidence which it heard.

19. Mr Tanase candidly conceded at the start of the hearing that the conviction was correct and that he accepted that the Applicants had paid rent of £6000 for their occupation during the last 12 months of their occupation pursuant to their tenancy dated 2nd December 2018.
20. The Tribunal had within the bundle a memorandum of conviction[44] showing that Mr Tanase had pleaded Guilty on 25th January 2021 to an offence contrary to Section 1(2) and (4) of the Protection of Eviction Act 1977 and was sentenced on 30th March 2021 (“the Offence”).
21. We note the Application was made within 12 months of the Offence.
22. The Offence is one which falls within Row 2 of Section 40(3) of the Housing and Planning Act 2016. This Tribunal cannot look behind this memorandum of conviction and in this instance Mr Tanase has attended and confirmed the offence. We are satisfied that this is grounds for making a rent repayment order.
23. We have considered whether we should make an order. We are satisfied that we should exercise our discretion and make a rent repayment order.
24. Under section 46 of the Housing and Planning Act 2016 if we decide we should make an order against a landlord convicted of the Offence then the amount should be the maximum amount unless we are satisfied there are exceptional circumstances. We do not consider that in this case there are any exceptional circumstances and Mr Tanase did not try and persuade us otherwise.
25. Mr Tanase accepts he was paid £6000 in the final 12 months and we have considered the evidence produced by the Applicants within the bundle. We are satisfied that rent of £6000 was paid and that this is the maximum amount of any award.
26. This Tribunal makes a Rent Repayment Order in favour of the Applicants in the sum of £6000 such sum to be paid by the Respondent to the Applicants within 14 days of the date of this decision.
27. We further Order that the Respondent shall reimburse the Applicant for the Tribunal fees paid of £300 within 14 days of the date of this decision.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.