



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

**Case reference** : **LON/00AG/HNA/2021/0052**

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

**Property** : **(x2) 12 Hadley Street, London NW1 8SS**

**Applicant** : **Nathaniel Thomas Jones**

**Representative** : **JPC Law**

**Respondent** : **London Borough of Camden**

**Representative** : **Mrs Susan Pledger  
(Ref: Requests 277836)**

**Type of application** : **Appeal against a financial penalty -  
Section 249A & Schedule 13A to the Housing  
Act 2004**

**Tribunal  
member(s)** : **Judge H Carr  
Ms R Kershaw**

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

**Date of decision** : **14<sup>th</sup> March 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: SKYPEREMOTE. A face-to-face hearing was not held because all issues could be dealt with in a virtual hearing and a face to face hearing was not practicable. The documents that the Tribunal were referred to are in a bundle provided by the applicant comprising 3 scanned

documents and submissions and a bundle provided by the respondent of 173 pages plus submissions, the contents of which have been noted.

### **Decisions of the tribunal**

- (1) The tribunal determines to confirm the civil penalties imposed upon the applicant by the respondent.
- (2) The tribunal determines to confirm the level of the civil penalties imposed.
- (3) The tribunal makes the determinations as set out under the various headings in this decision.

### **The application**

1. The applicant is appealing against the imposition of financial penalties by the respondent, the London Borough of Camden
2. The financial penalties were imposed for offences under section 95(1) of the Housing Act 2004 i.e. failure of a person having control of or managing a house which is required to be licenced but is not so licenced and failure to comply with HMO Regulations. The offences were committed on or about 8th December 2020.
3. The financial penalties imposed are as follows:
  - (i) £12,000 for failure to licence the property as an HMO
  - (ii) £8,000 for failure to comply with Regulation 4 of the Management of Houses in Multiple Occupation (England) Regulations
4. The property is a 4 bedroomed mid-terraced property situated in a residential area, On the ground floor there is an open plan lounge kitchen area and a further room which was originally a living room area but which the respondent says has been used as a bedroom. There are 2 bedrooms to both first and second floors. There is a shower room located off the ground floor kitchen area and a bathroom to the first floor.

5. The applicant is the freehold owner of the property. He has owned the property since 1991.

### **The hearing**

6. The application was heard on 8th March 2022
7. At that hearing the applicant attended and represented himself and the respondent was represented by Mr Paul Bernard a solicitor with the respondent and Ms Pledger was in attendance.
8. The applicant was only able to join the hearing by phone as his internet was unavailable. He was asked if he wished to adjourn but he chose to go ahead. The tribunal considered that the applicant would not be prejudiced as he had provided documentation and submissions in support of his application and was able to fully participate.

### **The background**

9. The respondent designated certain areas of Camden as areas of additional licensing. on 15th June 2015. The designation was renewed on 8th July 2020.
10. The property falls within the designated areas for additional licensing and during whatever periods it was occupied by 5 tenants it was subject to mandatory licensing.
11. The respondent visited the property on 8th December 2020 in response to a referral to the Rogue Landlord Unit. It found that there were five tenants living within the property who paid rent, shared bathroom and kitchen facilities and who confirmed that the property was their only or main residence.
12. The respondent also noted during that inspection that the fire precautions within the property were inadequate for its occupation as an HMO. Smoke/heat detectors were missing from required locations and those installed were battery as opposed to hardwired, the fire doors were inadequate, and the layout posed a serious fire risk to the occupiers.
13. There was no HMO licence in place on that date.

14. The respondent determined to impose financial penalties for the offences as set out above.
15. It considered the responses from the applicant but determined not to change its decision on either whether to impose the penalty or the level of the penalty.
16. The final penalty notice was served on 10th August 2021.

### **The issues**

17. The issues that the tribunal must determine are;
  - (i) Is the tribunal satisfied beyond reasonable doubt that the appellant committed the alleged offence?
  - (ii) Whether the local housing authority has complied with all of the necessary requirements and procedures relating to the imposition of the financial penalty (see section 249A and paragraphs 1 to 8 of Schedule 13A of the 2004 Act);
  - (iii) Does the appellant have a defence of a reasonable excuse?
  - (iv) Whether the financial penalty is set at an appropriate level, having regard to any relevant factors, which may include, for example:
    - (a) the offender's means;
    - (b) the severity of the offence;
    - (c) the culpability and track record of the offender;
    - (d) the harm (if any) caused to a tenant of the premises;
    - (e) the need to punish the offender, to deter repetition of the offence or to deter others from committing similar offences; and/or

- (f) the need to remove any financial benefit the offender may have obtained as a result of committing the offence.

### **The determination**

#### **Is the tribunal satisfied beyond reasonable doubt that the applicant has committed the alleged offence?**

1. The respondent in its statement and exhibits showed that the property required licensing and that the property was not licensed.
2. The appellant did not challenge the evidence of the respondent and accepted that the property required licensing. Indeed, the applicant has now obtained a licence for the property.

### **The decision of the tribunal**

3. The tribunal determines that the offence has been committed.

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

4. The applicant concedes that the offence has been committed.
5. The respondent has collated the necessary evidence to demonstrate that the offence has been committed.

#### **Has the respondent complied with all of the necessary requirements and procedures relating to the imposition of the financial penalty?**

18. The respondent provided evidence that it had complied with the necessary requirements and procedures relating to the imposition of the financial penalty.
19. The applicant did not challenge the evidence of the respondent.

### **The decision of the tribunal**

20. The tribunal determines that the respondent has complied with all of the necessary requirements relating to the imposition of the financial penalty.

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

21. The tribunal has considered the evidence carefully and notes that it is compliant.
22. The applicant has raised no procedural challenge to the process of imposition of financial penalty and the determination of the level of the penalty.

### **Does the appellant have a defence of a reasonable excuse?**

23. The applicant's case is that he was unaware that the property was being used as an HMO as he relied on agents to let out the property and ensure that he complied with the law. He argued that he did what millions of people do, organise for an agent to manage the property and that it is the agent that is to blame for any inadequacies in the arrangements.
24. The situation arose because the applicant moved from his property at 12 Hadley Street to his mother's house in 2018. He had given up his job to care for her. His mother died in September 2021.
25. In mid-2018, a leaflet was delivered to the applicant's mother's address advertising the services of Crown UK Lets. The applicant had wanted to let the property and called the telephone number on the leaflet. Shortly after the applicant met a representative of Crown UK Lets, David Cole, at the property. He showed Mr Cole around the property and discussed Crown UK Lets letting it on the applicant's behalf. The applicant was assured that the property would be let to a "nice family" and was told that Crown UK Lets would be able to obtain rents of £4,116.66 for the Property.
26. Accordingly, on 29.08.18 the Applicant entered into an agreement with Crown UK Lets for them to let and manage the Property. The fee for this service was 10% of the monthly rent. Prior to the applicant signing the agreement, the representative of Crown UK Lets assured the applicant that they would ensure that the property was properly managed.
27. The tribunal asked about the management fees. The applicant says that the agent retained the first month's rent as its fee for the first year of the letting and that subsequently he met with the agents and negotiated the fee. He indicated that in 2019 the fee was somewhere between £1,000 and £2,000 as he persuaded the agent to lower the charge. He paid that fee in cash so he has no record of that transaction. The applicant gave the impression that a similar arrangement was entered into in the subsequent year.
28. The agreement between the applicant and Crown UK Lets provided that Crown UK Lets was authorised to "...carry out all repairs that that may

affect the property including safety, security and compliance with the statutory notices and regulations ...”. The applicant understood that Crown UK Lets would comply with all statutory requirements necessary to let the Property.

29. When the tribunal asked about charges for repairs and maintenance the applicant said that he had not paid any such charges and there were no arrangements in place for such charges to be levied. He suggested that he had left the property in very good order and that it was likely nothing was required.
30. At no time prior to the middle of 2021 was the applicant aware that the property was being let by Crown UK Lets as an HMO and / or that in so letting the property, Crown UK Lets was not complying with the regulations imposed by the Secretary of State under s.234(1), 2004 Act.
31. Having let the property to Crown UK Lets the applicant concentrated on caring for his mother and he argues that he was entitled to assume that Crown UK Lets was lawfully managing the property on his behalf. At all material times, the applicant believed the property was let to a single family.
32. The applicant became aware of the proceedings because for the first time since renting out the property he visited it to collect the post. He told the tribunal that he did not on that occasion inspect the property and indeed had never carried out any inspections to the property.
33. On 10 August 2021, the respondent sent the applicant two Final Notices pursuant to Para.6 of Schedule 13A to the Housing Act 2004. The first notice imposed upon the Applicant a financial penalty of £12,000 for failing to licence the Property as an HMO. The second notice imposed upon the Applicant a penalty of £8,000 for not complying with the regulations made under s.234, 2004 Act.
34. Immediately upon receipt of the notices from the respondent the applicant took steps to ensure that a licence was obtained despite the applicant not knowing who was in occupation at the property.
35. The respondent is not persuaded by the applicant’s reasonable excuse defence.
36. Its starting point is that there is no defence of ignorance of the law. Moreover, the respondent considers that the applicant did not take proper responsibility for the property and that the arrangements put in place did not properly discharge the applicant’s responsibilities.
37. The respondent notes that the management agreement provides no contact details for Crown UK. The applicant confirmed that he had no

memory of contacting the managing agent during the agreement. It suggests that this was not responsible behaviour.

38. The respondent points out that the agreement does not make it clear whether it is a let only or full management agreement. The respondent suggests the fact that all the rent is paid direct to Mr Jones indicates the agreement is not a full management agreement. The applicant has failed to provide further information about Crown UK again suggesting that he has failed to act responsibly. The applicant agreed that in hindsight he should have been more diligent about the role of Crown UK. He told the tribunal that he believed that he had a full letting and management agreement. He said that he trusted Crown Lets to behave properly.
39. The respondent also points out that the agency agreement provided by the applicant's lawyer is in the name of Crown Lets but the tenancy agreement provided by the tenants has the name Central London Lets and Co Group. There are no names, telephone numbers or addresses provided. The applicant says that the agreement with the tenants was the responsibility of the agent and he had nothing to do with it. He is unable to explain the details.
40. The first month's rent for the property was paid to Red Star Homes the sole signatory for that bank account is Mr John Nathaniel Jones. The respondent notes the strong similarity between the names. The tribunal specially asked the applicant about this, but he was not able to provide any explanation.
41. The respondent considers that no credible evidence has been provided to demonstrate that the applicant was not aware how or who was living in the property. It argues that it is not a defence to blame the agent for not taking the appropriate action to apply for a licence to the property. The agreements provided by the applicant's lawyer and by the tenants all appear to be evasive about providing actual information about the agent and do not provide evidence of the physical existence of the agent.
42. The applicant argues that he had no time to visit the property whilst he was caring for his mother. As soon as he was notified by the local authority he followed the necessary steps to obtain a licence and paid the necessary fees.
43. He notes that whilst the local authority say that the property was an HMO from 2018 this was not reported until a dispute between the tenants and the agent regarding a deposit.
44. He says that the property was not in his control but managed by Crown UK Homes. He says that neither he nor the respondent have been unable to contact the agents and that is why he is being penalised and held accountable.



45. The respondent points out that the address on the land registry document is incorrect. The applicant told the tribunal that this is information from over 30 years ago which he has not updated. He said it was not a deliberate attempt to evade responsibility.
46. He has never met any tenants or signed an agreement with them. There has never been a bedroom on the ground floor. All the fire alarms that are installed in the house although battery detector he believed to be compliant with British standards.
47. The respondent says that the tenants present at the time of their inspection claimed to pay rent to Nigel Knight or Nigel King. The applicant says that he has no knowledge of who that might be but can only assure that his is a member of Crown UK Homes. He also says that Central Landlord Lets and Co Group is most likely a partner company or part of Crown UK Homes. He repeated to the tribunal that he did not arrange this tenancy nor sign any agreements with the tenants. He pointed out to the tribunal that the mobile number is not his mobile number.
48. The contact on spare rooms which was where rooms were advertised is that of David Cole who was the applicant's point of contact with Crown UK Homes. The information suggests that this was Mr Cole advertising the property on behalf of his company.
49. The applicant was unable to explain why the council tax account is registered as Nigel Knight. He told the tribunal that Mr Cole had said that the council tax would be the tenants responsibility when it was occupied and he therefore assumes that Nigel Knight must have been a previous tenant.

### **The decision of the tribunal**

50. The tribunal determines that the applicant does not have a reasonable excuse defence.

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

51. There are two reasons for the decision of the tribunal. First it does not find the evidence of the applicant plausible. Second it agrees with the respondent that even if the evidence was plausible the arrangements that the applicant says that he put in place were insufficient to provide him with a defence.
52. The evidence is not plausible because the agreement contains very little information about the purported management agreement and the financial arrangements are not believable. The applicant was not able to provide evidence about the first payment to the agents, being unclear

when that payment was taken from the rent. He failed to provide any explanation for the payment of monies to Red Star Homes. Nor is it believable that a managing agent would provide a full management service for a payment of between £1,000 and £2,000 in cash annually. Nor was the applicant able to provide any evidence that such payments had actually been made. It is not plausible that there were no arrangements in place to deal with repairing costs and maintenance and that no charges were levied. The tribunal finds it difficult to believe that the applicant did not visit the property over the period that it was managed by the agents and that he had not put in place any arrangement for the forwarding of post. Overall it is not believable that a property owner would hand his property over to a managing agents on the basis of a leaflet pushed through a door and one subsequent visit to the property.

53. Even if the tribunal is wrong and there was an arrangement entered into, that arrangement is insufficient for a reasonable excuse defence. The terms of the agreement are too unclear and the lack of inspections and proper accounting procedures mean that the agreement was inadequate for a reasonable excuse defence. The fees paid would indicate a very basic service and not one sufficient to properly manage a large residential property in London. The applicant made no enquiries about the expertise of the agents, its portfolio and the professional qualifications of those involved. He did not check that there were the necessary statutory safety checks in place nor did he check arrangements for the payment of deposits.
54. For these reasons the tribunal rejects the applicant's reasonable excuse defence.

### **Should the tribunal confirm or vary the Financial Penalty?**

55. The respondent explained how it had calculated the financial penalty and provided a copy of its policy including the matrix to the tribunal. It said that it had decided that a penalty as opposed to a prosecution was appropriate because the property is the only known HMO operated by the applicant and the applicant has not committed any previous offences.
56. Using the civil penalties matrix the respondent explained that the failure to obtain a licence would be considered a moderate band 2 offence but the respondent considered that there are aggravating factors which warranted the imposition of a higher penalty in the band 3 serious offence. There were

- (i) Lack of response to letters of alleged offence and section 18 notices

- (ii) The tenancy agreement provided to the tenants had only a name and not an address
  - (iii) The property had been used as an unlicensed HMO for more than 2 years.
  - (iv) Significant fire hazards existed at the property that posed a threat to the occupiers and in particular the layout and lack of a protected escape route out of the property.
  - (v) One of the bedrooms is too small under Camden's minimum standards for HMOs.
  - (vi) In mitigation an application for an HMO licence has been received.
57. The respondent considered the representations received from the applicant but did not change its decision. It did not consider that the applicant had dealt with reasons for the level of the financial penalties imposed.
58. The applicant argues that the proposed financial penalty is too high. It will have a huge impact upon him and he is unable to pay a financial penalty of that level.
59. The applicant argues that he has an extremely low level of culpability for the failure to licence the property and the failure to comply with the regulations. He says that he has clearly been the victim of a scam organised by Crown UK Lets and is a victim of their unlawful activities.
60. The applicant has committed no other housing offences. The applicant only owns this property and is unlikely to commit any further offences.
61. Having regard to the respondent's own policy the applicant argues that the financial penalty should be closer to the bottom level for moderate offences. He therefore argues that, having due regard to all of the circumstances the financial penalty is too high and ought to be reduced to £2,000 per infraction – i.e. £4,000 in total.
62. He gave evidence in relation to the factors that the respondent said it took into account
- (i) He did not respond to the letters and notices because he did not receive them. As soon as he did receive them he took action.

- (ii) The tenancy agreement was the responsibility of the agent.
- (iii) He did not know that the property was being used as an HMO.
- (iv) He believed that the fire alarms at the property were sufficient. He did not know that the downstairs study was being used as a bedroom. He did not know that the property was being used as an HMO and therefore did not know that further fire protections were required.
- (v) He did not know that the small room was being used as a bedroom

### **The decision of the tribunal**

63. The tribunal determines to confirm the level of the financial penalties.

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

64. The tribunal notes that the respondent has taken into account that this was a first offence and that a licence was very quickly applied for once final notices were served.
65. It agrees with the respondent's analysis of the culpability of the applicant.
66. It notes the high level of rent for the property. The applicant provided no evidence in relation to his income and assets and therefore the tribunal did not take these into account.
67. It notes that there was a failure to provide the tenants with basic legal protections such as a statutorily compliant tenancy agreement.
68. It is particularly concerned about the fire risks faced by tenants of the property. If the applicant had taken his responsibilities at all seriously, he would have ensured that the property was safe from fire. He did not do so and there is nothing in the evidence that he provided that would support reduction in the level of the financial penalties.
69. Overall the failure of the applicant to take seriously the responsibilities involved in renting out property put residential occupiers at risk of serious harm. Therefore, the tribunal confirms the level of penalties imposed.

**Name:** Judge H Carr

**Date:** 14th March 2021

### **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).