



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

Case Reference : LON/00AL/HMF/2018/0038

Property : Room 4, 14 Well Hall Parade, Eltham,
London SE9 6SP

Applicant : Georgie Taylor

Respondent : Mina An House Ltd

Type of Application : Rent Repayment Order

Tribunal : Judge Nicol
Mr P Roberts Dip Arch RIBA

Venue of Hearing : 10 Alfred Place, London WC1E 7LR

Date of Decision : 25th February 2019

DECISION

The Tribunal determines that it may not make a rent repayment order because it cannot be satisfied that a relevant offence has been committed.

Relevant legislation is set out in an appendix to this decision.

The Proceedings

1. The Applicant used to be one of the Respondent's tenants at 14 Well Hall Parade, Eltham, London SE9 6SP, a house in multiple occupation. Her tenancy started on 1st July 2016 and she left on 14th August 2018.
2. The Respondent purchased the property in around October 2016. The previous owners had an HMO licence from the local authority, the London Borough of Greenwich. Ms Kath Stent, an HMO Regulation Team Manager at Greenwich, told the Applicant in an email dated 5th

February 2019 that the licence had been issued on 22nd January 2016 for a period of 5 years expiring on 21st January 2021. The Respondent provided a copy of a licence issued to a Mr John Parrott on 8th September 2016, also for a period of 5 years. The discrepancy in dates has not been explained but makes no difference to the outcome of this case.

3. The Respondent had somehow gained the impression that a licence ran with the land so that a new owner did not have to get another licence. This is not correct because, under section 68(6), a licence may not be transferred. Further, under section 63(4)(b) of the Housing Act 2004, the licensing authority must be satisfied that the licence holder is a fit and proper person. Obviously, the authority cannot be satisfied of this if they have not had the opportunity to consider the question.
4. As a result of their misunderstanding, the Respondent did not even attempt to apply for an HMO licence until they realised their mistake around 5 months after the purchase. The Respondent sent in an application on 12th May 2017. Ms Stent told the Applicant in the aforementioned email that the application was made on 8th June 2017. Following the introduction of a new additional licensing scheme on 1st October 2017, Ms Stent stated that the Respondent was invited to resubmit an application online and that they did so on 31st March 2018. The licence was eventually granted to the Respondent on 6th September 2018.
5. On 14th November 2018 the Applicant applied for a rent repayment order on the basis that the Respondent had committed the offence under section 72(1) of the Act of having control of a property which is required to be licensed but is not so licensed. Both parties appear to have operated on the assumption that, since the Respondent owned the property and had not had a licence granted to them until 6th September 2018, the property was not licenced during their period of ownership until that date. However, that is not correct.
6. The Housing Act 2004 does not expressly address what happens to an HMO licence when the ownership of the relevant property changes. However, in the Tribunal's opinion, the Act operates as follows.
7. The authority consider whether the requirements for a licence are met on application and prior to grant. If any of the requirements cease to be met after the grant of the licence, the authority has the power to vary or revoke that licence, as appropriate. There is no provision for the licence to terminate automatically, without a decision from the authority, other than on the death of the licence holder under section 68(7). Essentially, the licence continues unless and until the authority decide otherwise (subject to an appeal under the Act to this Tribunal). The circumstances of a change of ownership may provide grounds for revocation but do not themselves cause the licence to be revoked.

In this particular case, the London Borough of Greenwich did not revoke the licence they originally issued in 2016. Therefore, the property continued to be licensed throughout. Further therefore, the Respondent did not commit the offence of which they were accused by the Applicant.

9. The result is that the Tribunal has no power to make a rent repayment order and the application must be dismissed.

Name: NK Nicol **Date:** 25th February 2019