

**Y TRIBIWNLYS EIDDO PRESWYL**  
**RESIDENTIAL PROPERTY TRIBUNAL**

Reference: RPT/0102/03/24

In the matter of 3 Maes Y Bettws, Port Talbot, SA12 9YN.

In the matter of an application under section 32(1) of the Housing (Wales) Act 2014 for a Rent Repayment Order.

APPLICANT: Rent Smart Wales  
RESPONDENT: Miss Nicola Lewis  
Tribunal: Tribunal Judge S. Westby  
Mr D. Evans FRICS (Surveyor Member)  
Ms C. Calvin-Thomas (Lay Member)

Date of determination 30 October 2024 on the papers.

**DECISION**

**The Tribunal makes a Rent Repayment Order against the Respondent who must pay to the Applicant the sum of £1,493.48 within 14 days of the date of this decision.**

**REASONS FOR DECISION**

**Background**

1. The Applicant is the Licensing Authority in Wales for the purposes of Part 1 of the Housing (Wales) Act 2014 ("the Act") which, amongst other things, deals with maintaining a public register of registered landlords, properties or licensed landlords and agents, administering landlord registrations and granting agent and landlord licences. Since 23 November 2015, under the provisions of the Act, there has been a legal obligation for all private sector landlords to be registered, trained and licensed or have in place a licenced agent to let and manage a property.
2. By an application dated 8 March 2024, the Applicant sought a rent repayment order pursuant to section 32(1) of the Act against the Respondent for payments of housing benefit paid directly to her for the period 8 February 2023 to 12 January 2024 on behalf of the tenant, Miss Sheehy.
3. Directions were set in this matter on 1 May 2024, were subsequently amended on 2 May 2024 at the request of the Applicant, and re-issued on 10 July 2024. The directions required the submission by both parties of witness statements and evidence to be relied upon in the proceedings. The Applicant complied with the directions by way of submission of a hearing bundle. The Tribunal has received no communication from the Respondent.

## The Applicant's Evidence

4. The Applicant's evidence is set out in a witness statement of Ms Megan Wellbeloved dated 17 July 2024 with a case statement and 39 exhibits.
5. In the case statement, the Applicant confirms that, on 23 August 2022, the Applicant was contacted by the Housing Department at Neath Port Talbot Council which reported that the property known as 3 Maes Y Bettws, Port Talbot, SA12 9YN ("the Property") is being rented to Miss Sheehy ("the Tenant") and that the landlord is the Respondent, whose address is 14 London Terrace, Port Talbot, SA12 9AN ("14 London Terrace").
6. A check of the Land Registry database on 20 October 2022 confirmed that the freehold owner of the Property was a Ms Mandy Lewis. On the same date, the Applicant received Housing Benefit information which confirmed that Ms Lewis was deceased, the Property was occupied by the Tenant and that the landlord was believed to be the Respondent who was in receipt of the housing benefit paid in respect of the Tenant's tenancy of the Property.
7. The Applicant wrote to the Tenant requesting confirmation of the landlord's details on 20 October 2022 and the Tenant's response was received by the Applicant on 27 October 2022. The Tenant confirmed that the Respondent was the landlord of the Property, the Respondent's last known address was 14 London Terrace and that the local authority paid the Tenant's housing benefit directly to the Respondent.
8. On 4 November 2022, the Applicant carried out a Land Registry search against the 14 London Terrace address, which was shown to be owned by a Mr Daniel Horn. The applicant also sent a suspected unregistered landlord letter to the Respondent at the 14 London Terrace address.
9. On 7 November 2022, the Applicant received council tax information from the borough council which confirmed that the Respondent was a tenant of 14 London Terrace, and that the owner of the property was Mr Horn. This was further corroborated by information received from the housing benefit team on 10 November 2022.
10. The Applicant sent a letter to the Respondent dated 8 December 2022 stating that it had intelligence that the Respondent was an unregistered/unlicensed landlord and requiring the Respondent to rectify this by no later than 22 December 2022.
11. On 22 December 2022, the Applicant received a telephone call in relation to the Property. The case officer states that the notes of the call are unclear, but the Applicant believes that the call was from the Respondent who was distressed about a letter she had received and said she had mental health issues. In light of that call, the Applicant sent a letter to the Respondent on 28 December 2022 offering an extended deadline in which to comply with the Act, support in respect of the training that the Respondent may require and confirmation as to what action the Respondent needed to take to comply with the Act. The letter requested that the Respondent contact the Applicant by no later than 11 January 2023 to confirm how she wished to proceed.
12. Further checks undertaken by the Applicant in January and February 2023, confirmed that Ms Lewis (deceased) was the freehold owner of the Property, that the Respondent was the landlord, and that the Tenant's housing benefit was being directly to the Respondent at £95 per week.

13. The Property remained without a registered or licenced landlord or agent and, therefore, on 3 March 2023 the Applicant served a fixed penalty notice under Section 4(2) of the Act on the Respondent for failing to be registered.
14. On 3 July 2023, the Applicant sent the Respondent a Notice of Intended Prosecution to the Respondent at the 14 London Terrace address. The Respondent was found guilty in her absence of committing an offence under Section 4(2) of the Act and Sections 7(1) and 7(5) of the Act on 16 November 2023. A memorandum of conviction is included at page 72 of the bundle. Following prosecution, the Applicant sent the Respondent a post prosecution letter on 21 November 2023 advising that the Respondent was still non-compliant.
15. After carrying out various further enquiries and confirming that the position in respect of the Respondent and the Property remained unchanged, the Applicant wrote to the Respondent at the 14 London Terrace address on 8 December 2023 advising that the Applicant was considering applying to this Tribunal for a rent repayment order in relation to the Property.
16. Yet further enquiries were made by the Applicant which, again, confirmed that the position in respect of the Respondent and the Property remained unchanged. This included an email from the local authority housing benefit team, dated 10 January 2024, which appended an application for housing benefit from the Tenant in respect of the Property and a form LA1, completed by the Respondent and which gave details of the tenancy granted to the Tenant. The form also includes a landlord declaration which has been signed by the Respondent and is dated 30 May 2017 (at pages 123 and 124 of the bundle).
17. On 12 January 2024, the Applicant served a notice of intended proceedings on the Respondent at the 14 London Terrace address. The correspondence indicated that the Applicant intended to apply to this Tribunal for a rent repayment order in relation to the Property in the sum of £4,940 (based upon £380 being paid to the Respondent every four weeks from 8 February 2023 up to 12 February 2024) ("the First Notice"). The Respondent was given 28 days to provide representations.
18. The Applicant made further unsuccessful attempts to contact the Respondent by telephone and on 8 March 2024, the Applicant submitted an application to this Tribunal for a rent repayment order.
19. In order to comply with the directions set by this Tribunal on 2 May 2024, the Applicant made further enquiries of the Housing Benefit Team Leader of Neath Port Talbot Council. The Applicant then established that the housing benefit payments to the Respondent in respect of the Property had been stopped by the Local Authority on or before 14 December 2022. They were stopped in order to re-pay a debt the Respondent owed to the Local Authority. The housing benefit payments to the Respondent commenced again from 6 March 2024, once that debt had been paid off. Housing benefit payments in respect of the Property were then paid to the Respondent for the period 6 March 2024 to 29 May 2024, when housing benefit then transitioned to universal credit.
20. The Applicant has produced a schedule (at page 148 of the bundle) which shows that from 6 March 2024 to 29 May 2024, the Respondent received 4 payments of housing benefit totalling £1,493.48. The amount of each of the 4 payments differ slightly and this is explained by an email from the Housing Benefits Team Leader to the Applicant dated 5 June 2024 and relates to the local housing association rate being increased from £95 per week to £103.56 (at page 152 of the bundle).

21. Accordingly, the Applicant served a second notice of intended proceedings dated 7 June 2024 (“the Second Notice”) upon the Respondent. The Second Notice confirms that the Applicant proposed to recover the sum of £1,493.48 from the Respondent by way of a rent repayment order and gave the Respondent 28 days to provide representations, up to 5 July 2024.
22. Further to the issuing of the Second Notice, the Procedural Chairman of this Tribunal made a re-issued directions order dated 10 July 2024 setting out new direction deadlines for both parties to comply with.
23. The Tribunal has sent all directions and correspondence to the Respondent at the 14 London Terrace address and has also sent correspondence to the Respondent by email. Despite this, the Respondent has not engaged at all within these proceedings.
24. The Applicant was content for the matter to be dealt with on the papers and seeks a rent repayment order to cover the payments made to the Respondent for the period 6 March 2024 to 29 May 2024. The total amount the Applicant is seeking to be repaid is £1,493.48, as set out in the Second Notice.

## **The Law**

25. Section 7(1)-(3) of the Act, in summary, requires landlords to be licenced to carry out property management activities. Those activities include all normal management of residential properties such as the collection of rent, arranging for repairs, being the point of contact for the tenant and serving a notice to terminate the tenancy.
26. Section 32 of the Act states as follows (Tribunal emphasis added):
  - (1) A residential property tribunal may, in accordance with this section and section 33, make an order (a “rent repayment order”) in relation to a dwelling on an application made to it by—
    - (a) the licensing authority for the area in which the dwelling is located,
    - (b) the local housing authority for the area in which the dwelling is located, or
    - (c) a tenant of the dwelling.
  - (2) But a local housing authority may not make an application under subsection (1) without the consent of the licensing authority mentioned in paragraph (a) of that subsection (unless it is the licensing authority); and consent for that purpose may be given generally or in respect of a particular application.
  - (3) A “rent repayment order” is an order made in relation to a dwelling which requires the appropriate person (see subsection (9)) to pay to the applicant such amount in respect of the relevant award or awards of universal credit or the housing benefit paid as mentioned in subsection (5)(b), or (as the case may be) the periodical payments paid as mentioned in subsection (7)(b), as is specified in the order
  - (4) The tribunal may make a rent repayment order only if it is satisfied—
    - (a) where the applicant is the licensing authority or a local housing authority (as the case may be), of the matters mentioned in subsection (5);
    - (b) where the applicant is a tenant, of the matters mentioned in subsection (7).
- (5) The tribunal must be satisfied—**
  - (a) that at any time within the period of 12 months ending with the date of the notice of intended proceedings required by subsection (6) an offence under section 7(5) or 13(3) has been committed in relation to the dwelling (whether or not a person has been charged or convicted for the offence);**

- (b) **that—**
    - (i) **one or more relevant awards of universal credit have been paid (to any person), or**
    - (ii) **housing benefit has been paid (to any person) in respect of periodical payments payable in connection with a domestic tenancy of the dwelling,**

**during any period during which it appears to the tribunal that such an offence was being committed, and**
  - (c) **the requirements of subsection (6) have been complied with in relation to the application.**
- (6) **Those requirements are—**
- (a) **that the authority making the application must have given the appropriate person a notice (a “notice of intended proceedings”)—**
    - (i) **informing the person that the authority is proposing to make an application for a rent repayment order,**
    - (ii) **setting out the reasons why it proposes to do so,**
    - (iii) **stating the amount that it will seek to recover under that subsection and how that amount is calculated, and**
    - (iv) **inviting the person to make representations to the authority within a period of not less than 28 days specified in the notice;**
  - (b) **that period must have expired, and**
  - (c) **that the authority must have considered any representations made to it within that period by the appropriate person.**
- (7) **The tribunal must be satisfied that—**
- (a) **a person has been convicted of an offence under section 7(5) or 13(3) in relation to the dwelling, or that a rent repayment order has required a person to make a payment in respect of—**
    - (i) **one or more relevant awards of universal credit, or**
    - (ii) **housing benefit paid in connection with a tenancy of the dwelling;**
  - (b) **the tenant paid to the appropriate person (whether directly or otherwise) periodical payments in respect of the tenancy of the dwelling during any period during which it appears to the tribunal that such an offence was being committed in relation to the dwelling, and**
  - (c) **the application is made within the period of 12 months beginning with—**
    - (i) **the date of the conviction or order, or**
    - (ii) **if such a conviction was followed by such an order (or vice versa), the date of the later of them.**
- (8) **In this section—**
- (a) **references to an offence under section 7(5) do not include an offence committed in consequence of a contravention of subsection (3) of that section, and**
  - (b) **references to an offence committed under section 13(3) do not include an offence committed in consequence of a contravention of subsection (1) of that section.**
- (9) **In this section—**
- appropriate person” (“*person priodol*”), in relation to any payment of universal credit or housing benefit or periodical payment in connection with a domestic**

**tenancy of a dwelling, means the person who at the time of the payment was entitled to receive, on that person's own account, periodical payments in connection with the tenancy;**

“housing benefit” (“*budd-dal tai*”) means housing benefit provided by virtue of a scheme under section 123 of the Social Security Contributions and Benefits Act 1992;

“relevant award of universal credit” (“*dyfarniad perthnasol o gredyd cynhwysol*”) means an award of universal credit the calculation of which included an amount under section 11 of the Welfare Reform Act 2012, calculated in accordance with Schedule 4 to the Universal Credit Regulations 2013 (housing costs element for renters) (SI 2013/376) or any corresponding provision replacing that Schedule, in respect of periodical payments in connection with a domestic tenancy of the dwelling;

“tenant” (“*tenant*”), in relation to any periodical payment, means a person who was a tenant at the time of the payment (and “tenancy” has a corresponding meaning).

- (10) For the purposes of this section an amount which—
- (a) is not actually paid by a tenant but is used to discharge the whole or part of the tenant's liability in respect of a periodical payment (for example, by offsetting the amount against any such liability), and
  - (b) is not an amount of universal credit or housing benefit,
- is to be regarded as an amount paid by the tenant in respect of that periodical payment.

## **Discussion**

27. We have been invited, and have agreed, to determine this matter on paper.
28. The Tribunal accepts the witness statement of Ms Megan Wellbeloved and the supporting documents.
29. The Tribunal is satisfied from the evidence provided that the Applicant has been corresponding with the Respondent at the correct address, being 14 London Terrace. Email correspondence has also been sent to the Respondent by both the Applicant and the Tribunal and the Applicant has also attempted to contact the Respondent by telephone. Neither the Tribunal nor the Applicant have received any information to state that 14 London Terrace is not the correct address for the Respondent.
30. The Tribunal has read through the entire trial bundle and determines the following:
- 30.1 The Respondent is clearly the landlord of this Property for the purposes of this application. The Respondent has been in receipt of housing benefit paid by the local authority on behalf of the Tenant and has signed the landlord declaration on the local authority form LA1.
  - 30.2 At no time has the Property been registered nor the Respondent licenced as a landlord.
  - 30.3 The Respondent is clearly the ‘appropriate person’ for the purposes of Section 32(9) of the Act as there is evidence of housing benefit payments being paid directly to her.
  - 30.4 The Respondent has been prosecuted as a consequence of non-registration and being unlicenced. The Respondent was found guilty in her absence of committing an offence under Section 4(2) of the Act and Sections 7(1) and 7(5) of the Act on 16 November 2023.

- 30.5 The proper procedure has been followed in accordance with Section 32(6) of the Act in terms of giving a notice of intended proceedings and allowing 28 days for comment. The Respondent had been informed, by virtue of the First Notice, that the Applicant proposed to make an application for a rent repayment order and had set out the reasons why it proposed to do this. The Second Notice sets out the amount that the Applicant now seeks to recover and how that amount is calculated. An additional 28 days was given to the Respondent to make representations in respect of the Second Notice and the Tribunal directions were re-issued following that 28-day period. As the Respondent did not comment on either the First Notice or the Second Notice, there is nothing further to consider under Section 32(6)(c) of the Act.
31. Given our determination at paragraph 30.4, we are satisfied that an offence has been committed in contravention of Section 7(5) of the Act during the 12-month period leading up to the intended prosecution, pursuant to Section 32 (5)(a) of the Act.
32. We are further satisfied that, in this instance, housing benefit has been paid during any period during which it appears to us that such an offence was being committed, pursuant to Section 32(5)(b) of the Act.
33. Pursuant to Section 32(5)(c) of the Act, we, as a Tribunal, are further satisfied that the correct procedure was followed as found at paragraph 30.5 above.
34. Pursuant to Section 33(4) of the Act a rent repayment order may not require payment of any amount which the Tribunal is satisfied that, by reason of exceptional circumstances, it would be unreasonable for that person to be required to pay. There is no evidence before us from, or on behalf of, the Respondent and, therefore, no grounds to conclude that there are any exceptional circumstances which would make it unreasonable for the Respondent to be required to pay the amount sought by the Applicant.
35. In the circumstances and for all the reasons set out above we Order that the Respondent is to pay the amount of £1,493.48 to the Applicant within 14 days of the date of this decision.

Dated this 5<sup>th</sup> day of November 2024

Tribunal Judge S. Westby