

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RPT/0091/01/26

In the matter of Flat 22 Brunel Court, Walter Road, Swansea, SA1 5RS.

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: Mr John McGuinness

Tribunal: Tribunal Judge C Jones (Legal Chairperson)

Dr J Rostron FRICS (Surveyor Member)

Mr B Bereton (Lay Member)

Appearances: Neither the Applicant nor the Respondent requested to appear before the Tribunal, and the matter was determined by the Tribunal on the papers by means of a remote Microsoft Teams meeting.

Date of determination: 14 August 2026

DECISION

The Tribunal duly makes a Rent Repayment Order against the Respondent who must pay to the Applicant the sum of £5,779.36 within 14 days of the date of this decision.

REASONS FOR DECISION

Background

1. The Applicant is the Licensing Authority for the purposes of the Housing (Wales) Act 2014 (**'the Act'**) in relation to the system of registration and licensing regulating the letting and management of dwellings which are subject to domestic tenancies in Wales. The Respondent is the Landlord of Flat 22 Brunel Court, Walter Road, Swansea, SA1 5RS (**'the Property'**)
2. By an application dated 30/01/2026, the Applicant applied to this Tribunal for a rent repayment order pursuant to Section 32(1) of the Act against the Respondent for payment to it of housing benefits awarded for the period 02/09/2024 to 03/08/2025, on the basis that the Property was not registered and the Respondent was not licensed in accordance with the Act.
3. A Directions Order was issued by the Procedural Judge on 26/02/2026. A further Directions Order was subsequently issued to the parties on 10/06/2026, allowing the Respondent an opportunity to produce a statement of case and any response to the Applicant's case. The Applicant indicated that it was content for this matter to be determined on the papers whilst the Respondent did not respond to the Tribunal's Directions in this respect, and the Tribunal determined that it was appropriate to proceed with determination on the papers accordingly.

The Legislation

Housing (Wales) Act 2014 (**'the Act'**)

4. The relevant Part of the Act regulates the letting and management of dwellings under certain domestic tenancies by means of a system of registration and licensing. Section 4 of the Act contains a requirement for landlords to be registered for such purposes subject to certain exceptions. Section 6 contains a requirement for landlords to be licensed to carry out a range of letting activities subject to certain exceptions, and Section 7 prohibits landlords from carrying out various property management activities unless

they hold a licence under the Act, unless the activities are carried out by an authorised agent, or unless certain exceptions apply. Contravention of these requirements amount to offences under the Act.

5. Section 32 of the Act contains the main provisions and requirements in relation to Rent Repayment Orders. The extracts which are relevant to this Application are as follows: -

‘Section 32(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...

(3) A “rent repayment order” is an order made in relation to a dwelling which requires the appropriate person ... to pay to the applicant such amount in respect of ... the relevant award or awards of...housing benefit paid as mentioned in subsection (5)(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... of the matters mentioned in subsection (5);

(5) The tribunal must be satisfied...that at any time within the period of 12 months ending with the date of the notice of intended proceedings...an offence under section 7(5) ...has been committed in relation to the dwelling...; (b) that...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.

(9) In this section—“appropriate person” ... in relation to any payment of ...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;’

6. Section 33 of the Act includes further provisions in relation to Rent Repayment Orders. Subsection (1) states that; *‘where, on an application by the licensing authority ...for a rent repayment order, the tribunal is satisfied (a) that a person has been convicted of an offence under section 7(5)... in relation to the dwelling to which the application relates, and (b) that...(ii) housing benefit was paid... in respect of periodical payments payable... during any period during which it appears to the tribunal that such an offence was being committed in relation to the dwelling in question...the tribunal must make a rent repayment order requiring the appropriate person to pay to the authority which made the application the amount mentioned in subsection (2); but this is subject to [relevant subsections].*

(2) The amount is...(b) an amount equal to the total amount of housing benefit paid as mentioned in subsection (1)(b)(ii) ...

(4) A rent repayment order made in accordance with subsection (1) may not require the payment of any amount which the tribunal is satisfied that, by reason of any exceptional circumstances, it would be unreasonable for that person to be required to pay.

(8) A rent repayment order may not require the payment of any amount which...(a) where the application is made by the licensing authority..., is in respect of any time falling outside the period of 12 months ending with the date of the notice of intended proceedings given under section 32(6) ...and the period to be taken into account under subsection (6)(a) is restricted accordingly.

(9) Any amount payable by virtue of a rent repayment order is recoverable as a debt due to the licensing authority... from the appropriate person.'

Applicant's Case

7. The Applicant's application for a Rent Repayment Order was dated 30/01/2026. The Applicant's investigations had shown that the tenant of the Property was a Mrs Gerardine (sometimes spelt 'Geraldine') Ann O'Neill (sometimes spelt 'O'Neil') and that the landlord was Mr John McGuinness (sometimes spelt 'McGuinness') of 165A Newton Road, Newton, Swansea, SA3 4UD, and the Applicant sent several communications to him at this address.
8. The Applicant stated that the Respondent was served with a fixed penalty notice on 31/01/2024, however he failed to pay the requisite sum. The Property remained unregistered and the landlord remained unlicensed. He was prosecuted and was convicted of offences under Sections 4(2) and 7(5) of the Act at Cardiff Magistrates Court on 08/08/2024. The Applicant noted that the Respondent remained landlord of the Property and that housing benefits continued to be paid to the tenant.
9. Mr Michael J Steer, Senior Housing Surveyor, produced a statement on behalf of the Applicant and explained that Cardiff Council had been designated as the Single Licensing Authority for the purposes of Part 1 of the Housing (Wales) Act 2014 in March 2015; *'the licensing authority being the body carrying out the functions of maintaining a register, administering landlord registrations and granting agent and landlord licences'*.
10. Mr Steer's detailed statement provided the chronology of events, and evidence of the attempts by the Applicant to contact the Respondent and to advise him that he was required to register and licence as a landlord. It also referred to the evidence of housing benefit payments made by Swansea Council to the apparent tenant of the Property.
11. Mr Steer provided a copy of the notice of intended proceedings sent by the Applicant to the Respondent on 01/09/2025, at the 165A Newton Road

address. On 03/10/2025, the Applicant was contacted by an individual claiming to be the Respondent's wife who requested that correspondence for the Respondent be sent to 22 Brunel Court rather than the Respondent's previously recorded address. She claimed that the previous address had not been lived in for years and that the letter received there was barely legible due to the conditions at the property. She suggested that her husband was living abroad but failed to provide an address other than 22 Brunel Court.

12. Mr Steer provided evidence regarding the housing benefit payments made to the tenant of the Property for the period 02/09/2024 to 03/08/2025, being the rent repayment order period referenced in the application. He produced evidence supplied by Swansea Council's housing benefit department in this respect. The total amount of the rent repayment order applied for was £5,799.36.
13. Finally, in supplementary correspondence with the Tribunal office, the Applicant stated that it considered that the Respondent was 'the appropriate person' under Section 32(9) of the Act, as it said that the evidence via Land Registry, Council Tax records and Housing Benefit records showed him to be the owner of the property. It stated; *'As the landlord, they are entitled to receive rent which in this case is being paid as housing benefit to the tenant'*.

Respondent's Case

14. The Tribunal noted that apart from the contact on 03/10/2025 from an individual claiming to be the Respondent's wife and requesting that correspondence be sent to 22 Brunel Court rather than the Respondent's previously recorded address, the Respondent had not engaged with the Tribunal and had not responded to the Directions Order dated 10/06/2026.

Discussion

15. The Tribunal carefully considered the application together with the bundle of written evidence supplied by the Applicant, consisting of 171 pages. The Tribunal noted from the available evidence that the Applicant corresponded with the Respondent at the last address officially notified to Swansea Council for the purposes of housing benefit payments. Communication had also been sent by both the Tribunal Office and the Applicant to the Respondent at Flat 22, Brunel Court, being the Property and the dwelling for which housing benefit was being claimed.
16. The Applicant also attempted to contact the Respondent by telephone and e-mail. An individual claiming to be Colette McGuinness, the wife of the Respondent, informed the Applicant that the Respondent was living abroad, but she failed to provide an alternative address and suggested that correspondence be sent to the Property. The evidence also included Land Registry entries for the Property, last updated 12 June 2018, with the Respondent's address being shown in the Proprietorship Register as Flat 22 Brunel Court, Walter Road, Swansea, SA1 5RS (the Property).
17. The Tribunal carefully considered the evidence in the light of the legislative requirements. It accepted the witness statement of Mr Michael Steer together with the relevant supporting documents in the bundle. In particular, the Tribunal noted the memorandum of conviction dated 08/08/2024, recording the fact that the Respondent had been convicted of a Section 7(5) offence. It also noted exhaustive attempts to contact the Respondent, the formal notice of intended proceedings dated 01/09/2025, and full details of the housing benefit payments made to the tenant of the Property at the relevant time.
18. The Tribunal noted that the tenant of the Property had stated on her application forms for housing benefits that her landlord was Mr John McGuinness, and declared that the information she had given on the form was correct and complete to the best of her knowledge, and that she understood that if it was not so, or she failed to report any changes which might affect her housing benefits, then she may be prosecuted. A letter signed by Mr John McGuinness had also been produced as part of the tenant's application for housing benefits stating that the tenant had been renting the Property at a

particular weekly rent since 12/08/2009. The Land Registry entry also showed that the Respondent was the leaseholder of the Property.

19. In the circumstances, the Tribunal determined that the evidence showed that, on the basis of the information supplied by both tenant and landlord, the Respondent was '*the appropriate person*' for the purposes of Sections 32 and 33 of the Act and the Respondent had claimed to be entitled to receive periodical payments in connection with the tenancy on his own behalf.
20. The Tribunal was also satisfied that the matters mentioned in Section 32(5) had been fulfilled. Firstly, the evidence was clear that despite its exhaustive attempts to engage the Respondent and despite his conviction on 08/08/2024 for an offence under Section 7(5) of the Act, the Property remained unregistered and the Respondent remained unlicensed under the provisions of the Act. The Tribunal was therefore satisfied that a continuing offence was being committed in relation to the Property for the entire period of 12 months ending with the date of intended proceedings, being 01/09/2025. It therefore determined that the requirements of Section 32(5)(a) were fulfilled.
21. Secondly, the Tribunal was satisfied, again based on the information contained in the tenant's applications for housing benefit, as well as declarations that the information she had provided was correct and complete, that housing benefit had been paid to the landlord during that whole period. In the circumstances, the Tribunal determined that the requirements of Section 32(5)(b) were fulfilled.
22. The Tribunal was further satisfied that the requirements contained in Section 32(6) were fulfilled. It was satisfied that the Applicant's notice of intended proceedings dated 01/09/2025 informed the Respondent that the Applicant was proposing to make an application for a rent repayment order. This notice set out clearly the reasons why the Applicant was proposing to do so and stated the amount that it would be seeking to recover and how the amount was calculated, referencing 12 payments of £483.28. The notice also provided 28 days for the Respondent to make representations to the Applicant. That period had expired; however no relevant representations were made by the Respondent to the Applicant for consideration.

23. In the circumstances, and in the light of the further provisions contained in Section 33 of the Act, the Tribunal was satisfied that it must make a rent repayment order requiring the Respondent to pay to the Applicant the amount of housing benefit which it had evidenced and applied for, dating from 02/09/2024 up to 31/08/2025 in the total sum of £5,779.36.
24. In accordance with Section 33(8), the Tribunal was satisfied that no period falling outside the period of 12 months ending with the date of the notice of intended proceedings had been included in the application.
25. The Tribunal was also satisfied that there was no evidence presented by, or on behalf of, the Respondent and, therefore, no grounds to conclude that there were any exceptional circumstances which would make it unreasonable for the Respondent to be required to pay the amount sought by the Applicant as per Section 33(8) of the Act.
26. In the circumstances and for all the reasons set out above, the Tribunal determines that the requirements of Section 32 and 33 of the Acts have been fulfilled in this case and it duly makes a Rent Repayment Order that the Respondent must pay the amount of £5,779.36 to the Applicant within 14 days of the date of this decision.
27. Finally, the Tribunal noted with concern that the evidence from the Land Registry entry for the Property occupied by the tenant showed that this was also the address given for the Respondent, and whilst this does not form part of the Tribunal's formal findings, this matter would no doubt benefit from further investigation and/or action by the appropriate authority/ies.

Dated this 26 day of August 2026.

Tribunal Judge C Jones