

Rent Repayment Orders (RROs)

A Tenants' Guide for tenants living within the private rented sector

Introduction

A Rent Repayment Order (RRO) is an order made by the First-Tier Tribunal (FTT). An RRO is a means for tenants and former tenants living in the private rented sector to reclaim a **maximum of 12 months'** rent paid to a landlord. A tenant can apply for an RRO if their landlord has failed to licence a House in Multiple Occupation (HMO) and been found guilty of committing the offence of renting a HMO without a licence at a magistrates court or tribunal.

All HMO's require a licence within the borough of Camden. Tenants should apply for an RRO **as soon as possible** as the amount you claim could decrease over time. The application must be made within 12 months of the landlords prosecution. The council will notify you if your landlord has committed an offence upon your application.

Your landlord has no right to make you leave your home because you are applying for a RRO. The laws protecting your tenancy will still apply and there are extra legal restrictions on evictions by landlords who are running unlicensed accommodation.

The first successful RRO case for Camden Council, the council reclaimed £9031.00.

Please note: Only private tenants can apply for RROs, this power is not available to council tenants or tenants of housing associations or arms length management organisations. The tenant cannot claim rent paid by housing benefit, this will be claimed by the local authority.

Does the house I rent or recently rented require a licence?

In Camden all HMO's require a licence:

Mandatory licence

This applies to large HMOs that are three or more storeys in height and occupied by 5 or more unrelated people who share facilities (e.g. kitchen, bathroom or toilet). It also includes a property with flats which do not have all amenities behind their own lockable front door.

When counting the number of floors, you must count all storeys in residential occupation, even if they are self-contained. This includes basements, loft conversions and attics if they can be occupied or are used in connection with the occupation of the HMO. Also any floors used by a resident landlord and their family, and any business premises or storage space on the ground floor or other floor.

Additional licence

This includes all other HMOs (including flats in multiple occupation) occupied by three or more persons who form more than one household. The number of storeys is not important. This includes buildings converted into self-contained flats, those that do not meet the standards of Building Regulations 1991 (or later).

Examples of these include:

- Bedsits
- shared houses or flats in multiple occupation (FMOs)
- resident landlord with more than two lodgers
- buildings which have been converted into self-contained flats or studios

More examples and information can be found on the council website 'properties which require a licence' on our Houses in Multiple Occupation page find link here:

<http://www.camden.gov.uk/ccm/navigation/housing/private-rented-housing/landlords/houses-in-multiple-occupation/?page=2#section-2>

When can I apply for a RRO?

You should only apply for an RRO if your landlord has committed an offence and found guilty for one or more of the following reasons at a tribunal or magistrates court:

As a tenant you can only apply for a RRO after:

- (a) your landlord has been found guilty in court of renting the accommodation without a licence

Or

- (b) an RRO has been made for your landlord to repay housing benefits paid on the property by the Council.

How soon should I apply for an RRO?

The tenant should apply for an RRO **as soon as possible** as the amount you can claim decreases over time. The application must be made within 12 months of the prosecution of the landlord.

The rent cannot be reclaimed for any period after:

- the tenant has moved away
- the landlord has sold the house or flat
- If the landlord has applied to the council for a licence (this could happen at any time)

Can one tenant act on behalf of all tenants?

If one tenant is willing to act for all the tenants in applying for the RRO the other tenants would need to sign a declaration stating the name of the person they are appointing to act on their behalf. Alternatively the person who acts for the tenant could be a person from the organisations mentioned below or a relative or friend of a tenant. The tenant must be able to trust the person they nominate to act on their behalf.

Which Organisations can help?

There are many organisations which can help you with the process of applying for an RRO including:

- Shelter
- Citizen's Advice Bureau
- A Law centre
- Camden Council's -Private sector housing team
- Tenants and Residents Associations or Tenants Federations
- Other community organisations e.g. churches or mosques, black and ethnic minority groups or older or disabled peoples' group.

How will the council support me with my application?

Camden Council will write to you regarding the outcome from a tribunal or magistrates court, if the landlord is found guilty of operating a HMO without a licence. If you decide to apply for an RRO the council can help supply evidence i.e. witness statement from the environmental health officer to support your application.

How much rent can I reclaim?

Tenants can apply to reclaim the rent paid for a period of up to a maximum of twelve months ending on the date of the application to the First-Tier Tribunal (FTT). You can ask to reclaim the rent for the full twelve months if you lived in the HMO and paid rent to the same landlord throughout this period. However the period for reclaim of the rent will end earlier if you have moved away, if the landlord has changed, or if the landlord has applied to the local council for a licence. You cannot claim any rent paid by housing benefit in your claim.

You will need to be able to prove that you paid the amount of rent you are claiming and who you paid it to. When you apply for the RRO you will need to:

- send a copy of your rent book, if you do not have one, make a list of all payments made by each tenant
- any tenants who go to the hearing should take proof of payment i.e. bank statements or cheque stubs, in case there is a dispute about the rent. You should include any receipt of rent payments acknowledged by the landlord or managing agent i.e. email or text.

The RRO is likely to require the landlord to repay less rent than the amount of rent that you are asking to reclaim.

NB: the tribunal may award less than the total amount particularly if the landlord has already had a large fine or there are other mitigating factors.

How do I make a claim?

Before applying for the RRO, you should make sure that you will be able to produce all the documents needed. These documents are listed in Annex 1.

You do not have to pay a fee for a RRO application.

You should make an application for a Rent Repayment Order to the First-Tier Tribunal (Property Chamber). You can download the application form from the First-Tier Tribunal (FTT) website at:

- http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=3055

Or

- telephone 0845 600 3178 to ask for the form. See (Annex 4) for guidance on filling in the form.

It is essential that you attach the following documents to your application, see Annex 2 for more details:

- (a) Evidence of the successful prosecution or RRO for housing benefits provide by your local council
- (b) Evidence of the rent paid during the period of up to twelve months. If the landlord did not give you a rent book or receipts for the rent and you have no other proof, make a list of all the rent payments you made and who they were paid to.
- (c) If you and/or any of the other tenants in the house have appointed someone to represent them include all the agreements to appoint that person to act on their behalf.
- (d) Evidence of five or more tenants living in the house during the period of the claim, unless stated in (b) above.

What happens next?

The FTT will send your application to the landlord. They will ask for five copies of the papers you wish to present at the hearing by a certain date, one of these will go to the landlord.

The papers for the hearing need to be in a bundle which is easy for the tribunal to refer to, for a list of the documents to be included see (Annex 1).

All the papers prepared for your RRO bundle should be:

- put the papers in date order
- each page should be numbered
- a list of contents with page numbers should be at the front.
- Once copied the papers need to be placed in a binding which will keep them in order. You may wish to get advice on preparing the bundle from one of the local organisations mentioned above.

The FTT panel members will usually visit the house or flat before the hearing. If you are at home when they visit, it is okay to talk to them, but do bear in mind that they will not take what you say into account when making their decision. They can only make their decision on the written evidence and what is said at any hearing.

You will normally get 21 days notice of any hearing. In some cases the RPT will make a decision without an oral hearing, but this would be unusual in the case of an RRO. In any case you would be sent a written record of the RPT panel's decision.

What is the hearing like?

The hearing at the FTT is similar to a court hearing, but less formal. The case is heard by two or three panel members. The panel chairman introduces the case and explains what will happen; you can ask the chairman questions at any time if you need to. The panel members can ask the landlord and the tenants' representative questions throughout the case and take notes.

FTT panels generally hear cases without lawyers, but everyone does have the right to be represented by a solicitor or barrister or by some other person. Don't let this put you off, many landlords do represent themselves and the Chairman of the panel will help you if necessary.

All tenants who are making the claim need to be present unless they have appointed a person to represent them. We recommend that two or more tenants are at the hearing, in case they need to answer questions about the rent, the accommodation, or any issues the landlord may raise about the behaviour of the tenants.

If a number of tenants have applied for the RRO themselves, it is easier if they appoint a spokesperson to lead their case at the tribunal. Other tenants will still get the opportunity to speak if they want to.

The hearing starts with the tenants' representative (rep) saying why they have applied for the RRO he/she can simply read out the Grounds of the Application from the application form

and introduce the evidence in the bundle. The landlord or his/her lawyer will ask questions of the tenant rep and then put their own case to say why the panel should not make an RRO or why it should be for less money than is claimed. The tenants' rep will then be able to question the landlord, or comment on what has been said. Other tenants will be able to have their say too.

The panel will not make their decision at the hearing. A written decision will be sent in the post within a few weeks.

The landlord and the tenants can appeal to the Lands Tribunal against a RRO, including the amount of money to be repaid, but must apply within 21 days. If the appeal to the Lands Tribunal involves a hearing the same tenants who were at the RPT hearing, will need to be there, the procedures are similar to those for the RPT.

More information on FTT procedures can be found in the FTT Guide to Houses in Multiple Occupation Licensing Cases at:

- http://www.rpts.gov.uk/pubs_and_forms/pdf/HMO_Booklet.pdf
Or
- telephone the FTT on 0845 600 3178 and ask for a copy.

How much rent will be repaid?

The RRO has the discretion to decide the amount of money the landlord must repay in the RRO. This amount is unlikely to be the amount of rent claimed by the tenants. In the Warwick case the tribunal said that tenants had benefited from “above-average student accommodation; and that to order the repayment of the total rent paid would result in an unjustifiable windfall to the applicants.” Here the RRO required the repayment of £18,540 to the sixteen tenants: this was 50% of rent which been paid.

The Tribunal has to decide on an amount they consider to be reasonable for the RRO, this decision will be based on the:

- amount of rent paid
- conduct of the landlord (how well he/she manages the accommodation and its condition)
- landlord's income, and
- conduct of the tenants in relation to the accommodation (you, or your representative, will have the opportunity to comment on what is said, so it is important to be prepared for this).

How will the money be paid?

The FTT will set a date by which the RRO money must be paid to the tenants. The FTT may agree to the landlord paying the money in instalments.

What if the landlord doesn't pay up?

If the RRO payment is not received by the agreed date the tenants can apply to the County Court for permission to reclaim the money as a civil debt (see The Residential Property Tribunal Procedure (England) Regulations 2006, regulation 34). A housing advice agency, Citizens Advice Bureau or solicitor can advise on this procedure.

Can my landlord evict me?

Your landlord has no right to make you leave your home because you are applying for a RRO. If your landlord does try to evict you, you should seek legal advice, there are extra restrictions on landlords powers to evict, where the accommodation is not licensed, see Housing Act 2004, section 75. You can contact one of the above mentioned organisations who will advise you on such a matter.

Conclusion

Tenants and former tenants can reclaim up to twelve months rent in a RRO where a landlord has been found guilty in court or in a tribunal of renting a HMO without a licence. The procedure involves gathering evidence and appearing before a tribunal, but not all tenants need to do it themselves. One tenant can be appointed to represent the other tenants and various local organisations can help in the process and may be willing to represent the tenants. Tenants should apply for an RRO as soon as possible after the successful prosecution or RRO for housing benefits, as in most cases the amount of rent that can be reclaimed will reduce as time goes on.

Please note: This advice has been produced in consultation with experienced housing practitioners. It is not statutory guidance, so should be read in conjunction with the law. The advice may be subject to challenge by the Courts or the FTT.

Annex 1

Before applying for the RRO, you should make sure that you will be able to produce all the documents needed. If the council is administering your claim then you will need to provide the documents listed below:

List of documents needed for a Rent Repayment Order (RRO)

The following documents need to be provided either with the application for the RRO or in the bundle for the hearing. The original documents should be kept by the tenants or their representative and will need to be available at the hearing.

Evidence to show:	Details to be included	Format	Who can help	When these documents are needed	Checklist (tick once you have the relevant information)
1. A successful prosecution or RRO for Housing Benefits	Date of prosecution or RRO, amount of fine, name of person or organisation responsible (must be same landlord stated in your RRO application).	<ul style="list-style-type: none"> Housing Benefits RRO or Press cutting/press release, or statement from council officer. 	Camden Council Private Sector Housing team	With application	
2. Rent paid by the tenants during the period of 12 months up to the date of the application for the RRO	For each tenant. Dates when rent was paid and who it was paid to. Do not include any rent paid by housing benefits.	<ul style="list-style-type: none"> Rent book or receipts for rent or table listing all payments, or document from landlord or managing agent stating rent payments are up to date. 	If the rent is paid to an agent, ask if they can confirm that the rent is up to date.	With application Also include bank statements and cheque stubs (if paid by cheque to the hearing)	
3. Tenants' agreements to appoint another person to act on their behalf (where relevant).	See Annex 1			Obtain as early as possible and send with application.	
4. Completed application form sent to the RPT				Bundle for hearing	
5. Correspondence with the RPT		Letters or emails received and sent		Bundle for hearing	
6. Tenancy agreement, if provided when you moved in.			Other tenants	Bundle for hearing	
7. Evidence to show five or more tenants, if not shown in 2 or 6 above.	Tenants names and dates they lived in the house or flat for the period the rent is being claimed.	List	Other tenants and tenants who have moved out	Bundle for hearing	
8. Statement from Council officer (optional)	This should include: <ul style="list-style-type: none"> details of the prosecution or housing benefits RRO letters inviting the landlord to apply for a licence details of any licence 		Council Environmental Health or Private Sector Housing Officer	Bundle for Hearing	

Annex 2

The Laws on Rent Repayment Orders

1. Housing Act 2004 http://www.opsi.gov.uk/acts/acts2004/ukpga_20040034_en_1

- Section 73 Other consequences of operating unlicensed HMOs: rent repayment orders.
- Section 74 further provisions about rent repayment orders
- The Houses in Multiple Occupation (Certain Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (England) Regulations 2007 – this covers certain converted blocks of flats and is a complex area of law, you are advised to speak to a Council officer if you wish to carry out a RRO in this type of HMO.

2. The Residential Property Tribunal Procedure (England) Regulations 2006 <http://www.lacors.gov.uk/lacors/ContentDetails.aspx?authCode=4BC2FEA&id=15284>

- (Statutory Instrument 831/2006) Regulation 18

The key part of the above law for tenant applications for RROs is:

Section 73 (8)

If the application is made by an occupier of a part of the HMO, **the tribunal must be satisfied as to the following matters—**

(a) that the appropriate person has been convicted of an offence under section 72(1) in relation to the HMO, or has been required by a rent repayment order to make a payment in respect of housing benefit paid in connection with occupation of a part or parts of the HMO,

(b) that the occupier paid, to a person having control of or managing the HMO, periodical payments in respect of occupation of part of the HMO during any period during which it appears to the tribunal that such an offence was being committed in relation to the HMO, and

(c) that 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.

If you do not have access to the internet, these documents can be purchased from The Stationary Office, by calling 0870 600 5522, or you may be able to view them at your local library.

Annex 3

Application Form to the Residential Property Tribunal for a Rent Repayment Order

You can download the application form from:

- http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=3055

Or

- telephone 0845 600 3178 to ask for the form.

Most of the questions are straight forward, but please note:

Question 4: the **respondent** is your landlord and needs to be the same person or company or other organisation who was found guilty in court or who was required to repay housing benefit money under a RRO made by the Council.

Question 7: the **type of application** is “An application by an occupier for a Rent Repayment Order under Housing Act 2004 Section 73(5).”
In the **Grounds of the Application** you will need to say:

“This application for a rent repayment order follows the {conviction of [respondent’s name] on [date] for running an unlicensed house in multiple occupation} {making of a rent repayment order on [date] requiring [respondent’s name] to repay rent paid as housing benefit paid for accommodation} at [address of house or flat].

Rent amounting to £xxx was paid, by the tenants living at [address], to [respondent’s name] [agent of the respondent Mr/Ms xxxxx] {during the twelve months ending on the date of this application} {during the period between [date twelve months before this application] and [date you moved/landlord changed/licence application was made]}. This amount does not include rent paid for by housing benefits or any provision of services such as meal provision or laundering.”

Remember you will need to send some of the papers listed in Annex 1 with your application form.