

## **Rent Repayment Orders A Guide for Tenants**

### **Introduction**

A Rent Repayment Order (RRO) is a means for tenants and former tenants to reclaim up to twelve months rent where a landlord rents out accommodation which should be licensed, but is not. However the landlord must first be found guilty in court or in a tribunal of committing the offence of renting the accommodation without a licence. Such cases will be taken by the Council.

In most cases an application for an RRO needs to be made **as soon as possible**, this is because the amount a tenant can claim will decrease as time goes on. Tenants can usually get help with their application from a Citizens Advice Bureau, their local council, a students union, or another local organisation.

A landlord has no right to make a tenant leave their home because they are applying for a RRO. The laws protecting tenants still apply and there are extra legal restrictions on evictions by landlords who are running unlicensed accommodation.

This guide explains the process for applying for a RRO and describes the evidence you will need. It also explains where you can get help and the roles of the various people involved.

### **How do I know if the house I rent or recently rented should have had a licence?**

All houses in multiple occupations (HMOs), commonly bedsits and shared houses in buildings of three storeys or more and which are occupied by five or more people in two or more households must have a licence. Additionally, in Swansea all HMOs whatever their size requires licensing. You can check whether your property has a licence on the Public Register <http://www.swansea.gov.uk/index.cfm?articleid=21267> or by contacting the Council on (01792) 635600.

### **What is a Rent Repayment Order?**

A RRO is an order made by a Residential Property Tribunal (RPT) which requires a landlord to repay to tenants and former tenants, the rent paid for accommodation that was not licensed. The maximum amount that tenants can ask for is the total rent paid over a twelve month period, however the actual amount in the RRO could be much less.

RROs are made under sections 73 and 74 of the Housing Act 2004.

As a tenant, or former tenant, you can only apply for a RRO after:

- your landlord has been found guilty in court of renting the accommodation without a licence, or
- a RRO has been made for your landlord to repay housing benefit paid on the property.

Contact us to check if either of the above has occurred.

**Please note:** Only private tenants can apply for RROs, this power is not available to council tenants or tenants of housing associations.

### **When should we apply to the tribunal?**

You should apply for an RRO as soon as possible, as in most cases the amount you can claim will decrease as time goes on. The rent cannot be claimed for any period after:

- the tenant has moved away
- the landlord has sold the property, or
- the landlord has applied to the Council for a licence (and this could happen at any time).

In any case, the application for the RRO must be made within 12 months of the date of the successful prosecution, or the award of a RRO for housing benefit.

### **Can I get help?**

Tenants can get help from various organisations including:

- Tenants and Residents Associations or Tenants Federations,
- Shelter Cymru
- Citizen's Advice Bureau or a Law Centre
- student union
- other community organisations e.g. churches or mosques, black and ethnic minority groups or older or disabled peoples' group

If one tenant is willing to act for all the tenants in applying for the RRO the others only need to sign a declaration stating the name of the person they are appointing to act on their behalf, see Annex 1. Alternatively the person acting for the tenants can be from one of the above local organisations or a friend or relative of one of the tenants, as long as the tenants trust that person to represent them.

### **How much rent can I reclaim?**

Tenants can apply to reclaim the rent paid for a period of up to a maximum of 12 months ending on the date of the application to the RPT. You can ask to reclaim the rent for the full 12 months if you lived there 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 Council for a licence. Please note you cannot claim for any rent paid by housing benefit in your claim.

You will need to be able to prove that you actually 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 have one, otherwise make a list of all payments made by each tenant, see Annex 3. Any tenants who go to the hearing should take proof of payment, for example, bank statements or cheque stubs, in case there is a dispute about the rent. If the landlord or the managing agent has acknowledged receipt of rent payments, say by e-mail, you should include this as evidence.

The RPT will consider the amount of rent that you are asking to reclaim, but in practice they will usually decide to make an RRO requiring the landlord to repay a lesser amount. This was the case in seven of the eight RROs made in England before November 2009, see Annex 2.

### **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 4.

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

You should make an application for a Rent Repayment Order to the Residential Property Tribunal for Wales (RPT). You can contact them at:

Residential Property Tribunal for Wales

First Floor

West Wing

Southgate House

Wood Street

Cardiff

CF10 1EW

Tel: 029 2023 1687

Fax: 029 2023 6146

It is essential that you include the following documents with your application, see Annex 4 for more details:

- (a) Evidence of the successful prosecution or RRO for housing benefits provided by the Council
- (b) Evidence of the rent paid during the period of up to 12 months
- (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 everyone living in the house during the period of the claim to show that the property was one which required licensing, unless this is shown in (b) above.

### **Who would have to repay the rent?**

When you apply for an RRO, you need to state the name of the person or company who/which would have to pay the RRO (or repay the rent). The RPT calls that person the “respondent”. The respondent must be the owner of the property. You may pay your rent to a managing agent or a person who is not the owner. You should check your tenancy agreement, if you have one, to find out who the owner is. If necessary check the owner named in the Land Registry. (When property is sold the owner’s name and address is recorded at the Land Registry. Any person can get details from the Land Registry, but there is a fee <http://www.landreg.gov.uk/> ).

### **What happens next?**

The RPT will send your application to the landlord. The RPT may also “issue directions” asking you to send in more written information. It is important that you do this, otherwise you could lose the case. If you do not understand what they want, ask the RPT to explain.

If there is to be a hearing, you will be asked to provide five copies of the papers you wish to present 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 4. All the papers need to be put in date order, each page should be numbered and 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 RPT 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 RPT 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.

RPT 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 there anyway, 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, see below.

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 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 tenants' representative 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' representative 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 final decision at the hearing. Their decision will be in writing and it will be sent in the post to the landlord and tenant(s) within a few weeks of the hearing.

The landlord and the tenants can appeal against a RRO to the Lands Tribunal, but they must do so within 21 days. The appeal may involve a hearing, if so the same tenants who were at the RPT hearing, will need to be there. The procedures are similar to those for the RPT.

## **How much rent will be repaid?**

The RPT will decide the amount of money the landlord must repay in the RRO. It is almost always less than the amount claimed by the tenants in their application.

For example in a case heard on 21 July 2009 in Nottingham an RRO for £2,841.75 was made. This amounted to 50% of the rent paid to the five tenants. It was reduced because the tribunal said that tenants did not keep the property in a “completely acceptable” manner, the property was of a reasonable standard and the landlord had already incurred a substantial fine of £5,000 in the Magistrates’ Court.

The RPT 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).

In the cases where RROs have been awarded (see Annex 2 for some examples) the amount has varied greatly depending on the views of the RPT in respect of the points above and other issues.

## **How will the money be paid?**

The RPT will send a copy of their written decision to the landlord. At present this is the only way they know they should repay the rent. It should be paid directly to the tenants. So if you do not receive the money within four weeks of the RPT decision, firstly check with the RPT to find out whether the landlord has appealed. If not the tenants should write a letter to the landlord asking for the money to be paid to them, stating the amount to be paid and who it should be paid to. If there is more than one tenant, the money can be divided up and paid to each tenant individually. (If there is an appeal, you would have to wait until it has been decided.)

## **What if the landlord doesn’t pay up?**

If the RRO payment has not been received within say one month of the letter, the tenants can apply to the County Court for permission to reclaim the money as a civil debt (see The Residential Property Tribunal Procedure (Wales) Regulations 2006, regulation 34). [www.opsi.gov.uk/legislation/wales/wsi2006/20061641e.htm](http://www.opsi.gov.uk/legislation/wales/wsi2006/20061641e.htm)

A housing advice agency, Citizens Advice Bureau or solicitor can advise on this procedure. You could ask them to enquire whether they can register the RRO as a local land charge under section 74(9) of the Act.

### **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.

### **Conclusion**

Tenants and former tenants can reclaim up to 12 months' rent in a RRO where a landlord has been found guilty in court or in a tribunal of renting their accommodation 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 Residential Property Tribunal.

**Authority to Act on Behalf of Tenant  
in application for Rent Repayment Order**

I [name of tenant] of [address of tenant] {formerly of [address of unlicensed house or flat]} authorise and give my consent to [name of representative] [organisation of representative or address of representative] to act on my behalf in the process of applying for a Rent Repayment Order to reclaim the rent paid at [address of unlicensed house or flat] which was operated without a licence.

I request that those who it may concern provide my representative with all relevant information and I authorise them to discuss my case with them.

Signed:

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Name:

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Date:

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### **RPT cases on RROs (tenant applications)**

RPT decisions on RRO applications between October 2007 and November 2009 in England are listed below. You will see that the proportion of the rent to be reclaimed in the RRO varies greatly. You can obtain full copies of the decisions using the links below. If you do not have access to the internet, you can telephone the RPT in England on 0845 600 3178 stating the address and date of decision you need.

RRO application in respect of 32 Teversal Avenue, Lenton, Nottingham.

Decision date: 21 July 2009

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=22302>

An RRO for £2,841.75 was made, this was 50% of the rent paid to the five tenants during four and a half months. The amount was reduced to 50% because the tenants did not keep the property in a “completely acceptable” manner, the property was of a reasonable standard and the landlord had already incurred a substantial fine of £5,000 in the Magistrates’ Court.

RRO application in respect of 68 Oak Tree Lane, Birmingham.

Decision date: 22 June 2009

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?authCode=2F3D800&id=22304>

An RRO for £4,495 was made. The application was for £7,050 for rent paid between July 2007 and June 2008, but the application for the RRO was made in February 2009. So the amount of rent to be repaid was reduced to the full amount of rent paid between February 2008 and June 2008 when the tenants moved out.

RRO application in respect of 21 London Road, Reading, Berkshire

Decision date: 3 March 2009

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=21689>

An RRO was awarded for the reclaim of £2,940. The period for the repayment of rent was reduced from five months to three months, because the Magistrates’ Court record of conviction stated that the contravention covered a specific period, this is unusual. The RPT did not accept that the HMO continued to be operated without a licence after that period. The RRO required repayment of the full rent paid during the three month period. The tenants have not been able to recover the money six months after the RRO was made, in spite of their Council helping them to get the money from the landlord.

RRO application in respect of 70 Trinity Road, Bridlington, YO15 2HF

Decision date: 26 February 2009

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=21504>

An RRO was made for £2,460. This was 50% of the full rent paid to two tenants. The amount was reduced because the RPT considered that the landlord had not complied with a legal notice, requiring repairs to the property, and that they had already incurred a hefty fine in court.

RRO application in respect of 79 Bayham Street, Camden, London

Decision date: 26 March 2009

[http://www.rpts.gov.uk/Indexes/LON\\_HA\\_HIMOL\\_00AG\\_2009.htm](http://www.rpts.gov.uk/Indexes/LON_HA_HIMOL_00AG_2009.htm)

An RRO made for £866.66, which was the full rent paid for two months by one tenant. Two ex-tenants had made a joint application for the RRO, but it was submitted four months after the conviction in the Magistrates' Court. This meant that one of the tenants could not get any rent repaid as they had moved out before the start of the 12 months relevant period.

RRO application in respect of 13 Beech Street, Kensington, Liverpool, L7 0EU

Decision date: 16 October 2008

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=20664>

An RRO was awarded for £3,900, the full amount applied for by six tenants. The full amount was agreed because the RPT found that the landlord's conduct was poor.

RRO application in respect of 34 Hounslow Gardens, Hounslow, Middlesex,

Decision date: 21 October 2008

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=20666>

An RRO for £500 was made, the application made by a couple was for £2,714. The amount was reduced because of the landlord's financial circumstances and there were six other tenants who could also make applications RROs.

An RRO was made in respect of two houses at 37 and 11a Warwick Street,  
Leamington Spa.

Decision date: October 2007

<http://www.lacors.gov.uk/lacors/ContentDetails.aspx?id=18149>

The RRO was for £18,540, this was 50% of the rent paid to 16 ex-tenants. The amount was reduced because the tenants had the use of reasonable accommodation. (See main guide above for details.)

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

Contact the Residential Property Tribunal for Wales (First Floor, West Wing, Southgate House, Wood Street, Cardiff, CF10 1EW. Tel: 029 2023 1687, Fax: 029 2023 6146) for the application form.

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

- the “**respondent**” is the person or company that owns your home. If you pay rent to the owner, that owner is the respondent. If you pay rent to another person or a managing agent, you need to find out who the owner is and name them as the respondent. (In the latter case the respondent may not be the same person or company who was found guilty in court.)

**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 [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’s name] who collected the rent on behalf of [name of respondent]} {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.”

**Remember you will need to send some of the papers listed in Annex 4 with your application form.**

### List of documents needed for a Rent Repayment Order

The following papers 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 needed
<p>1 A successful prosecution or RRO for Housing Benefits</p>	<p>Date of prosecution or RRO, amount of fine, name of person or organisation responsible.</p>	<ul style="list-style-type: none"> <li>• housing benefits</li> <li>• RRO,</li> <li>• report from</li> <li>• Magistrates' Court,</li> <li>• press cutting, or</li> <li>• <input type="checkbox"/> statement from</li> <li>• Council officer.</li> </ul>	<p>HMO Team</p>	<p>With application</p>
<p>2. Rent paid by the tenants during the period of 12 months up to the date of application for the RRO or rent paid until date you moved/ landlord changed/ licence applied for.</p>	<p>For each tenant: Dates when rent was paid, Amount paid Who it was paid to.</p> <p>Do not include any rent paid by housing benefits.</p>	<p><input type="checkbox"/></p> <ul style="list-style-type: none"> <li>• rent book, or</li> <li>• <input type="checkbox"/> receipts for rent, or</li> <li>• <input type="checkbox"/> table listing all payments, or</li> <li>• document from landlord or agent stating rent payments are up to date.</li> </ul>	<p>If the rent is paid to an agent, ask if they can confirm that the rent is up to date.</p>	<p>With application.</p> <p>Also take bank statements and cheque stubs (if paid by cheque) to the hearing.</p>

3. Tenants' agreements to appoint another person to act on their behalf (where relevant)	See Annex 1			Obtain as early as possible. Send with application.
4. Completed application form sent to the RPT	See Annex 3			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 that property is licensable 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 could include: <ul style="list-style-type: none"> <li>• details of the successful prosecution or</li> </ul>		HMO Team	Bundle for hearing

	<p>housing benefits RRO</p> <ul style="list-style-type: none"><li>• name and address of the owner of property</li><li>• letters inviting the landlord to apply for a licence</li><li>• details of any licence application made</li><li>• <input type="checkbox"/> landlord's history of compliance</li><li>• any details of landlords' income raised in the above court or tribunal hearing</li></ul>			
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