

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12024-2019

BETWEEN:

SOLICITORS REGULATION AUTHORITY

Applicant

and

RAHAND RAZA

Respondent

Before:

Mrs A. Kellett (in the chair)

Mrs C Evans

Mrs S. Gordon

Date of Hearing: 27 February 2020

Appearances

Shaun Moran, solicitor of Solicitors Regulation Authority, The Cube, 199 Wharfside Street, Birmingham, B1 1RN, for the Applicant.

Jonathan Goodwin, solicitor of Jonathan Goodwin Solicitor Advocate Ltd 69 Ridgewood Drive, Pensby, Wirral CH61 8RF.

JUDGMENT

Allegations

1. The allegations made by the Applicant against the Respondent were set out in a Rule 5 Statement dated 14 November 2019 and were that:
 - 1.1 By virtue of his conviction under section 1(2) and (6) of the Prevention of Social Housing Fraud Act 2013 at the South East London Magistrates Court on 2 May 2018, he breached any or all of: -
 - 1.1.1 Principle 1 of the SRA Principles 2011 (“the Principles”);
 - 1.1.2 Principle 2 of the Principles; and
 - 1.1.3 Principle 6 of the Principles.

Documents

2. The Tribunal considered all of the documents in the case which included:

Applicant

- Application and Rule 5 Statement with exhibit “SM1” dated 14 November 2019
- E-mail from Lee Flanagan to Jonathan Goodwin dated 6 August 2019
- Decision of Authorised Officer re Practising Certificate dated 15 February 2019
- Adjudication decision dated 24 February 2020
- E-mail from Authorisation Officer re Practising Certificate dated 26 February 2020
- Schedule of Costs dated 14 November 2019 and 17 February 2020

Respondent

- Answer to the Rule 5 Statement dated 9 January 2020
- Respondent’s Character References x 6
- Respondent’s medical evidence
- Judgment in SRA v Sharma [2010] EWHC 2022 (Admin)

Factual Background

3. The Respondent was born in 1978 and was admitted to the Roll of Solicitors on 15 April 2015.
4. The Respondent remained upon the Roll of Solicitors and had a current Practising Certificate for practising year 2019/20 free from conditions.
5. On 24 January 2020 an Adjudicator made a decision imposing conditions on the Respondent’s Practising Certificate for practice year 2019/20 due to the Applicant’s investigation with respect to the conviction set out below.
6. In the South East London Magistrates’ Court on 2 May 2018 the Respondent pleaded guilty to dishonestly, and in breach of an express or implied term of tenancy, sub-letting

part of 12 Rawlinson House, Mercator Road, London SE13 1RA (“the Property”) between 15 October 2013 and 13 September 2016 without the landlord’s written consent and ceased to occupy the dwelling-house as his principle home under section 1(2) and (6) of the Prevention of Social Housing Fraud Act 2013.

7. The Respondent’s landlord was Lewisham Homes, a social housing provider for Lewisham Council (“the Landlord”).
8. Following his conviction, the Respondent was sentenced to 12 week’s imprisonment suspended for two years and ordered to pay compensation (*an unlawful profit order*) to the Landlord in the sum of £3,496.00.
9. Subsequently, the Respondent lodged an appeal against sentence in the Crown Court at Croydon on 2 May 2018 and on 1 March 2019, the Crown Court dismissed the Respondent’s appeal against sentence.
10. At all material times, the Respondent was a trainee solicitor at Hanif & Co between July 2012 and April 2015 and then a solicitor from 15 April 2015 at UK & Co Solicitors in Birmingham.
11. On 23 May 2018 the Respondent self-reported his conviction via his mySRA account.

Witnesses

12. Neither the Applicant nor the Respondent called live evidence.

Findings of Fact and Law

13. The Applicant was required to prove the allegations beyond reasonable doubt. The Tribunal had due regard to the Respondent’s rights to a fair trial and to respect for his private and family life under Articles 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
14. The Tribunal considered carefully all the documents, witness statements and evidence presented. In addition, it had regard to the oral and written submissions of both parties, which are briefly summarised below.
15. **Allegation 1**

The Applicant’s Case

- 15.1 The Applicant relied upon the Memorandum of Conviction entered in the Register of the South East London Magistrates Court for 23 May 2018 and dated 9 July 2018 (“the Memorandum”) as proof of the Respondent’s conviction for the offence under the Prevention of Social Housing Fraud Act 2013 for dishonestly sub-letting his property without the Landlord’s knowledge and consent.
- 15.2 The Memorandum recorded that the Respondent had been convicted of a dishonesty offence. The reason given for committing the Respondent to prison for 12 weeks suspended for two years, was:

“Offence so serious. Reason for custody: dishonest from the outset position of trust”.

- 15.3 The dates of the misconduct, and to which the Respondent entered his guilty plea, were between 15 October 2013 and 13 September 2016, however, the Respondent later asserted that the misconduct had, in fact, ceased on 15 November 2015.
- 15.4 The Applicant submitted that despite the disputed end date for the offence, the offence had nonetheless occurred whilst the Respondent was a trainee at Hanif & Co between July 2012 and April 2015 and then a solicitor from 15 April 2015.
- 15.5 The Applicant submitted that by reason of his conviction for an offence involving dishonesty the Respondent was in breach of the following Principles:

Principle 1 of the Principles - Allegation 1.1.1

- 15.6 Principle 1 states that a solicitor must uphold the rule of law and the proper administration of justice. The Applicant submitted that by being convicted of a criminal offence of dishonesty, the Respondent had undermined the rule of law and the proper administration of justice and was thereby in breach of Principle 1 of the Principles.

Principle 2 of the Principles – Allegation 1.1.2

- 15.7 Principle 2 of the Principles states that a solicitor must act with integrity.
- 15.8 In *Wingate v Solicitors Regulation Authority v Malins* [2018] EWCA Civ 366, it was said that integrity connotes adherence to the ethical standards of one’s own profession and that this involves more than mere honesty. The duty to act with integrity applies not only to what solicitors say but also to what they do.
- 15.9 A member of the public would expect a solicitor of integrity to not commit such an offence.
- 15.10 By virtue of his conviction for an offence involving dishonesty the Respondent had failed to act with integrity.

Principle 6 of the Principles – Allegation 1.1.3

- 15.11 Principle 6 states that a solicitor must behave in a way that maintains the trust the public places in them and in the provision of legal services. The Applicant submitted that the public would have no trust in a solicitor who had been convicted of a criminal offence of dishonesty.

The Respondent’s Case

- 15.12 The Respondent accepted all allegations made against him by the Applicant and did not seek to go behind the conviction to which he had pleaded guilty. The Respondent had entered his guilty plea in the Magistrates’ Court at the first opportunity.

- 15.13 The Respondent accepted that he was convicted for being in breach of an express or implied term of a tenancy, by part sub-letting without the Landlord's written consent contrary to Section 1 (2) and (6) of the Prevention of Social Housing Fraud Act 2013.
- 15.14 The Respondent accepted that the offence had involved dishonesty, for which he was sentenced to prison for 12 weeks, suspended for 2 years and ordered to pay compensation of £3,496.00.

The Tribunal's Findings

- 15.15 The Tribunal found the factual basis of the allegations proved to the requisite standard, namely beyond reasonable doubt, and that the admissions of the Respondent to the breaches of the Principles had been properly made.
- 15.16 Accordingly allegations 1.1, 1.1.1; 1.1.2; 1.1.3 were proved.

Previous Disciplinary Matters

16. There were no previous Tribunal findings.

Mitigation

17. Whilst asserting that the Respondent did not seek to go behind the fact of the conviction Mr Goodwin set out the background to the Respondent's conviction and his personal circumstances.
18. Mr Goodwin also set out his intention to persuade the Tribunal that in the Respondent's case there existed exceptional circumstances such as would enable the Tribunal to consider the imposition of a lesser sanction than striking the Respondent off the roll of solicitors.
19. In April 2010 when the Respondent was living with his partner in Birmingham they had their first baby following which they separated from each other due to difficulties in their relationship. Following their separation, the Respondent went to live in London where he initially stayed with a friend.
20. In July 2010 the Respondent applied for, and was given the tenancy of a flat by the Landlord. The flat at 12 Rawlinson House was retained by the Respondent as his permanent home although he would return to Birmingham to visit his child where he stayed with his partner on a temporary basis until they fully reconciled in 2016.
21. In 2012 the Respondent allowed his friend Mr E1 to stay at 12 Rawlinson House. Whilst the Respondent and Mr E1 shared living expenses the Respondent remained the person with responsibility for paying the rent, utility bills and council tax for the property.
22. The Respondent said that he had trusted Mr E1 and he did not ask Mr E1 to move out of his flat when the Respondent was compelled, by reason of his own ill health, to move back to Birmingham where he stayed with family and friends. Instead, the Respondent asked Mr E1 to look after the property for him until he had recovered from his health problems and he was fit enough to return to London.

23. In April 2013, and unbeknownst to the Respondent, Mr E1 sublet the flat at 12 Rawlinson House. The Respondent only became aware of Mr E1's actions when he received a telephone call from Mr E2, who introduced himself as Mr E1's brother, informing the Respondent that he was going to rent the Respondent's flat. The Respondent immediately objected, however, Mr E2 told the Respondent that if the Respondent took steps to evict him, he would report the Respondent to the Landlord. The Respondent acquiesced to Mr E2's threat and the Respondent permitted Mr E2 to remain in the flat.
24. Mr E2 finally moved out of the flat on 15 November 2015 and the Respondent was able to return to his property.
25. During the period of Mr E2's occupancy at 12 Rawlinson House the law with regard to sub-letting changed and by virtue of the provisions contained within the Prevention of Social Housing Fraud Act 2013 it became a criminal offence to sub-let social housing without the consent of the Landlord.
26. The Respondent had been unaware of the new legislation because during this period his focus had been primarily on his own health condition (which had been deteriorating and became more complex during the years 2010 to 2015) and his difficult relationship with his partner and their attempts at reconciliation. To the best of the Respondent's knowledge or belief, he was not aware that it had become a criminal offence to receive payment from household colleagues or sub-let social housing.
27. The Respondent provided evidence to the Tribunal confirming his medical history between 2010 and December 2015 and it was said that at the time of the commission of the offence resulting in the Respondent's conviction, the Respondent had been subject to serious life-threatening health conditions which had clouded his judgment and his ability to deal with Mr E2 in a way he would have done had he not been so ill.
28. Having been summoned to court to answer the allegation of sub-letting his flat the Respondent was advised by his representatives to enter a not guilty plea. However, Mr Goodwin submitted that, contrary to this advice, the Respondent pleaded guilty and that this was indicative of the Respondent's true character and moral soundness because, although he may have had a defence which could have been tested before the Justices, the Respondent himself had considered he had acted inappropriately and as a result he wanted to be punished for his mistake.
29. It was said on his behalf that this state of mind demonstrated the Respondent's probity and integrity and Mr Goodwin presented for the Tribunal's consideration 6 character references which attested to the Respondent's professional abilities and dedication as a solicitor and also his qualities as a charitable and family man.
30. Mr Goodwin also brought to the Tribunal's attention matters relating to the Respondent's Practising Certificate which he submitted were relevant to the Tribunal's full consideration of the matter.
31. On 15 February 2019, an Authorised Officer ("AO") of the SRA granted the Respondent an unconditional Practising Certificate for the practice year 2018/2019, in

full knowledge of the conviction. It was said by Mr Goodwin that in granting the unconditional Practising Certificate the AO correctly identified that conditions could only be imposed on a Practising Certificate where the proposed condition or conditions were necessary in the interests of the public and to ensure that trust in the provision of legal services was maintained.

32. There was a requirement that any proposed condition had to be reasonable and proportionate and that in order to assess the reasonableness or proportionality of a proposed condition a specific risk had to be identified. Mr Goodwin submitted that the AO in this case had noted that, save for the conviction, the Respondent had no other adverse regulatory history since his admission in April 2015 and on this basis the AO had been satisfied that it had not been necessary in the interests of the public and under the relevant regulations to impose any conditions upon the Respondent's Practising Certificate for the practice year 2018/2019.
33. On 15 October 2019 the Respondent was again granted an unconditional Practising Certificate for the practice year 2019/2020. However, on 24 January 2020 an Adjudicator made a decision imposing conditions on the Respondent's Practising Certificate for practice year 2019/20 due to the Applicant's investigation with respect to the conviction.
34. Mr Goodwin submitted that whilst the Tribunal was not concerned with the imposition of conditions on Practising Certificates, the decision of the SRA to grant an unconditional Practising Certificate in the knowledge of the conviction was a relevant and exceptional factor within the context of the case as a whole.
35. Mr Goodwin acknowledged that there was a distinction to be drawn between the imposition of a sanction penalising past conduct, and the management of future risk in relation to the imposition of Practising Certificate conditions and he referred to Re: a Solicitor (No 6 of 1993) in which Sir Thomas Bingham had said, amongst other things:

“The purpose of the condition on a practising certificate is not punitive, but is intended to ensure that a solicitor who has run into trouble in a professional capacity is subject to a degree of oversight in the conduct of his professional life at least until he has demonstrated over a period that he is not in need of such supervision to protect the public”.
36. Mr Goodwin said that it could be reasonably inferred that the decision not to impose any condition or conditions upon the Respondent's Practising Certificate, despite knowledge of his conviction, could only have been on the basis that there was no identified risk such as to justify the imposition of any condition and in reality there had been no change in the position between the decision of 15 February 2019 until the imposition of conditions on 24 January 2020. The Respondent still posed no risk to the public.
37. The fact the SRA had determined that it was appropriate to issue a practising certificate free of conditions on two occasions was a factor for the Tribunal to consider and Mr Goodwin referred the Tribunal to paragraph 55 of its own Guidance Note on Sanctions (7th Edition) which states:

“As a matter of principle nothing is excluded as being relevant to the evaluation
.....”

38. Mr Goodwin reminded the Tribunal that its assessment and evaluation as to whether exceptional circumstances existed was fact specific in each case and he invited the Tribunal to have regard to all of the issues he had raised, both individually and collectively, and to determine that they did represent exceptional circumstances such that the Respondent’s case fell within the small residual category of cases where striking off would be a disproportionate sanction.
39. In the event that the Tribunal found exceptional circumstances Mr Goodwin invited the Tribunal to impose a period of suspension either for a fixed term or for an indefinite period.
40. During the course of his mitigation Mr Goodwin referred the Tribunal to the judgments in:
 - SRA v Sharma [2010] EWHC 2022 (Admin).
 - Sharma and R (Solicitors Regulation Authority) v Imran [2015] EWHC 2572 (Admin).
 - SRA v James, MacGregor and Naylor [2018] EWHC 3058 (Admin).

The Respondent’s health surrounding the commission of the offence.

41. In April 2010 while the Respondent was at work he suddenly coughed up a large amount of blood. Between May to August 2010 the Respondent had another three such episodes (haemoptysis) and as a result he was admitted into hospital. He was diagnosed with a rare form of bronchitis in which his right-side lower lobe of his lungs was damaged.
42. Between August 2010 and July 2012 the Respondent had further bouts of haemoptysis for which he was admitted for an emergency operation (bronchial artery embolization). The operation temporarily stopped the Respondent’s lung from bleeding, however, he was under regular care by his doctors and family members. He had another such operation which was life threatening and required his admittance to intensive care. He has suffered severe pain on his right-side lung ever since.
43. The Respondent experienced recurrences of haemoptysis and he was re-admitted to hospital on 15 July 2015 for an operation to remove the lower lobe of his right lung.
44. The Respondent has since had ongoing medical issues and in 2018 was diagnosed with high blood pressure. In 2019 the Respondent’s left lung was also found to have been damaged with the same rare bronchitis condition which had affected his right lung.

Sanction

45. The Tribunal first had regard to the observation of Sir Thomas Bingham MR (as he then was) in Bolton v Law Society [1994] 1 WLR 512 that the fundamental purpose of sanctions against solicitors was:

“to maintain the reputation of the solicitors’ profession as one in which every member, of whatever standing, may be trusted to the ends of the earth”.

46. The Tribunal referred to its Guidance Note on Sanctions (7th Edition) when considering sanction. The Tribunal was mindful of the three stages it should follow when approaching sanction, namely the seriousness of the misconduct, the purpose for which sanctions are imposed by the Tribunal, and the sanction which appropriately fulfils that purpose in light of the seriousness of the misconduct.
47. The Tribunal assessed the seriousness of the misconduct by considering the level of the Respondent’s culpability and the harm caused, together with any aggravating or mitigating factors.
48. In assessing culpability, the Tribunal found that the motivation for the Respondent was a personal decision to maintain his tenancy of the flat at 12 Rawlinson House during a period when he was not in London. The tenancy of the flat represented an asset, which he wished to retain whilst he was not there.
49. The Respondent’s actions were not spontaneous or inadvertent and there was evidence before the Tribunal which indicated thought, planning and organisation on the Respondent’s part. Within the bundle of material lodged by the Applicant there was a statement dated 19 July 2017 from JB, a Housing Investigation Practitioner employed by the London Borough of Lewisham. The statement had been prepared in connection with the criminal proceedings and it indicated that during the course of JB’s investigation the Respondent accepted receiving £650 per calendar month in rent from Mr E2 which was paid to the Respondent via bank transfer. The Respondent’s bank statements had showed 30 rent payments from Mr E2 and JB calculated that the Respondent had received £11,295.00 in rent following the coming into force of the Prevention of Social Housing Fraud Act 2013.
50. Other than the trust placed in him by the Landlord to operate within the terms of the tenancy agreement the Tribunal did not consider that the Respondent had, within the circumstances of the case, acted in breach of a position of trust.
51. The Tribunal considered that the Respondent had had direct control and responsibility for the circumstances giving rise to the misconduct and the Tribunal rejected the Respondent’s submission that he had been the victim of Mr E2, who he claimed had been a trespasser in his flat.
52. The Tribunal concluded that if the Respondent had truly considered Mr E2 to have been a trespasser then he had had avenues of action open to him by which he could have notified the Landlord and taken steps to evict Mr E2. However, the Respondent chose not to do so and on the Respondent’s own account he had acquiesced when Mr E2 had allegedly threatened to report the Respondent to the Landlord. If the Respondent had believed that Mr E2 was a trespasser then he would not have objected to the Landlord being notified and, in fact, he would have welcomed this step being taken as it would have assisted him in removing an unwanted person from his flat.

53. The inescapable conclusion to be drawn from the fact that the Respondent had not wanted the Landlord informed was because the Respondent was deriving a benefit from the arrangement namely rent money and the retention of his tenancy.
54. The Tribunal again noted that during the material time the Respondent had been in receipt of regular payments of rent from Mr E2 via bank transfer. On his own account he had used some of this money to make improvements to the property.
55. The Tribunal accepted that at the material time the Respondent may not have been an experienced solicitor however he was not at that time a man without life experience or an understanding of legal matters. The Respondent had been in his thirties when the events concerning the allegation had commenced and he had spent a number of years studying law to higher degree level and had then undertaken his professional training which he had completed in April 2015. The Respondent had sufficient legal knowledge to understand the nature of his actions at the time and the consequences which flowed from them.
56. Whilst there was no evidence that the Respondent had misled the Regulator (the Respondent had self-reported) the Tribunal assessed the Respondent's culpability as high taking into account all the factors it had considered.
57. The Tribunal next considered the issue of harm. There had been no direct harm to any individual in this case and it was accepted that the Respondent had not deliberately set out to cause harm. However, the Respondent's conduct had caused harm to the wider society. By sub-letting the flat at 12 Rawlinson House without the consent of the Landlord and contrary to the law he had frustrated its correct and appropriate utilisation as social housing for those in most need, at a time when he himself was not even living in the property.
58. The Tribunal observed that the Respondent had experienced serious health problems during this time, however, it also noted that the Respondent had experienced long periods when his health appeared stable such that he was able to study, qualify as a solicitor and then practise as a solicitor. The Respondent therefore had opportunities to reflect upon the rectitude of his conduct and it had been open to him to cease the sub-letting of the flat at any time during this period. The Respondent had chosen not to do so.
59. The damage to the reputation of the profession by the Respondent's misconduct was significant as the public would trust a solicitor not to place their own self-interests in the acquisition of personal profit, namely the retention of a tenancy, before the wider needs of society. The Respondent's conduct was a marked departure from the complete integrity, probity and trustworthiness expected of a solicitor.
60. The extent of the harm was entirely foreseeable and was of the type that the Prevention of Social Housing Fraud Act 2013 was introduced to prevent and, when viewed in this context, the Tribunal placed little weight on the submission that the Respondent had not been aware of the change in the law brought about by the said Act.
61. The Tribunal assessed the harm caused as high.

62. The Tribunal then considered aggravating factors. The Tribunal found that the Respondent had admitted his conduct had lacked integrity and that he had acted dishonestly. The Respondent had pleaded guilty to an offence of dishonesty which had carried with it a criminal penalty and he had been sentenced to a period of 12 weeks' imprisonment suspended for 2 years.
63. The Respondent's actions, from which he had personally benefitted, had been deliberate and calculated. The Respondent had misused his tenancy of the flat for his own purposes and concealed this from the Landlord.
64. On the face of the Memorandum of Conviction the offending had been for a period of 2 years and 11 months (15 October 2013 to 13 September 2016) and even on the Respondent's own account the period had been over 2 years (15 October 2013 to 15 November 2015). In either case this had not been a short period of time. During this time the Respondent knew or ought to have known that his conduct was in material breach of his obligations to protect the public and the reputation of the legal profession: this was evidenced by the fact that the Respondent had 'backed off' when Mr E2 had allegedly threatened to report the Respondent to the Landlord, if the Respondent had had nothing to fear then he would not have objected to this course being taken by Mr E2.
65. There was no evidence that the Respondent had taken advantage of a vulnerable person, but it was arguable that the Respondent had potentially prevented other people from obtaining the accommodation they required. However, the extent of the impact was relatively limited as the Respondent could have remained legitimately in the property during this time.
66. The Tribunal noted that the Respondent had no previous disciplinary findings recorded against him.
67. The Tribunal also considered mitigating factors and, in this regard, the Respondent had pleaded guilty in the Magistrates' Court, seemingly against the advice of his legal representative, and he had self-reported the conviction to the Regulator relatively promptly thereafter. There was no evidence that the Respondent's misconduct was the result of deception by a third party.
68. The Respondent had paid the Landlord compensation in the sum of £3,496 which represented the modest profit the Respondent had made during the period he had sub-let the flat less the legitimate rent paid to the Landlord and the sums it had cost the Respondent to decorate and improve the flat.
69. The Tribunal accepted that the Respondent had apologised for his conduct and that he appeared to show genuine insight.
70. The Tribunal considered the overall seriousness of the misconduct was high: it could not be otherwise given the Respondent's conviction for an offence in which dishonesty was a significant ingredient. Additionally, the Respondent had admitted that his conduct had lacked integrity and that he had failed to uphold public trust in the provision of legal services.

71. In the Judgment of the Divisional Court in SRA v Sharma [2010] EWHC 2022 (Admin) it had been held that “save in exceptional circumstances, a finding of dishonesty will lead to the solicitor being struck off the roll...that is the normal and necessary penalty in cases of dishonesty... There will be a small residual category where striking off will be a disproportionate sentence in all the circumstances... In deciding whether or not a particular case falls into that category, relevant factors will include the nature, scope and extent of the dishonesty itself; whether it was momentary... or over a lengthy period of time ...whether it was a benefit to the solicitor, and whether it had an adverse effect on others.”
72. In SRA v James, MacGregor and Naylor [2018] EWHC 3058 (Admin) it was said that exceptional circumstances must relate in some way to the dishonesty and that as a matter of principle nothing was to be excluded as being relevant to the evaluation, which could include personal mitigation.
73. In evaluating whether there were exceptional circumstances justifying a lesser sanction in this case the focus of the Tribunal was on the nature and extent of the dishonesty and degree of culpability and then to engage in a balancing exercise as part of that evaluation between those critical questions on the one hand and matters such as the Respondent’s personal mitigation and health issues on the other.
74. In this case the Respondent had presented evidence in support of personal mitigation. The Tribunal noted that the Respondent had an otherwise unblemished record and that he had produced 6 positive testimonials which spoke to his professionalism and dedication to his clients and his other good qualities as a person. Further, it had been advanced on his behalf that during the period of the allegation the Respondent had been undergoing health issues as well as relationship problems with his partner which, individually and cumulatively, contributed to the clouding of his judgment and to the Respondent making wrong choices.
75. In addition, submissions were made on the Respondent’s behalf with respect to the SRA’s decision to issue the Respondent with unconditional Practising Certificates for the years 2018/19 and 2019/20 (*albeit conditions were later imposed when the decision was made to pursue the present allegation*). This was in the knowledge of his conviction and that it was argued that this was because the SRA had identified no risk presented by the Respondent such as to justify the imposition of any conditions.
76. The Tribunal observed that the Respondent, on a number of occasions throughout the hearing, had stated (through his representative) that he did not seek to go behind the conviction and it was a matter of public record that the offence to which he had pleaded guilty had taken place between 15 October 2013 to 13 September 2016: a period of 2 years and 11 months. This had not been a fleeting or momentary lapse of judgment but represented a protracted course of conduct. Even if the Respondent was correct in his assertion that the correct period of time over which the offence was committed was from 15 October 2013 to 15 November 2015 this still represented a significant period during which the Respondent derived unlawful personal gain in monetary terms and in the retention of the tenancy. During this time the Respondent was a trainee and then a qualified solicitor and thereby subject to the high standards of the profession.

77. The Tribunal accepted that the Respondent had suffered bouts of serious illness during the relevant time, however, he had also experienced long periods of stable health when he could and should have applied his mind to his conduct and taken steps to end the unlawful sub-letting of the flat. The Respondent had taken a conscious decision not to end the sub-letting.
78. Further, if Mr E2 had been in residence at the flat as a trespasser, as suggested by the Respondent, the Respondent made an active decision not to report Mr E2 to the Landlord to enable the Landlord to take the necessary steps to evict Mr E2. The Respondent did not report Mr E2's presence in the flat to the Landlord because he was receipt of rent from Mr E2, paid monthly by bank transfer, and because the Respondent wished to retain the tenancy of the flat in circumstances where it was possible the Landlord may have had good reason to terminate the tenancy.
79. The Tribunal considered that in all the circumstances of the case the Respondent's physical ill health and personal pressure he was under were not such as to have nullified his ability to separate right from wrong and indeed during this period he was able to study, qualify as a solicitor, and work. The Respondent's conduct had not been a "moment of madness" but had instead been deliberate and calculated course of conduct from which he had personally benefitted.
80. Having given careful and sympathetic consideration to all the matters raised on the Respondent's behalf including: his state of health; his character references; his work in the profession; and the fact that he had no previous disciplinary findings the Tribunal concluded that only limited weight could be given to these factors when evaluated against the inherent seriousness of a conviction for dishonesty and the circumstances of the offence. Accordingly, the Tribunal found that whilst the Respondent's circumstances may have been difficult, they were not "exceptional" within the meaning of Sharma and James.
81. The Tribunal considered therefore that to make No Order, or to order a Reprimand, a Fine or Suspension (either fixed term or indefinite) would not be sufficient to mark the seriousness of the conduct in this case. The Respondent's misconduct was very serious and this fact, together with the need to protect the reputation of the legal profession, required that Strike Off from the Roll was the only appropriate sanction.

Costs

82. The total costs claimed in the Applicant's schedule of costs was £2,471.90. The parties reached agreement that the costs, as claimed by the Applicant, should be paid by the Respondent.
83. The Tribunal assessed the costs for the hearing. In all of the circumstances the Tribunal considered that the figure agreed between the parties was reasonable and ordered the Respondent to pay the Applicant's costs of and incidental to this application fixed in the sum of £2,471.90.

Statement of Full Order

84. The Tribunal Ordered that the Respondent, RAHAND RAZA, solicitor, be STRUCK OFF the Roll of Solicitors and it further Orders that he do pay the costs of and incidental to this application and enquiry fixed in the sum of £2,471.90.

Dated this 14th day of April 2020
On behalf of the Tribunal

A handwritten signature in black ink, appearing to read 'A. Kellett', is written over a light grey rectangular background.

A. Kellett
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
14 APRIL 2020