

11972



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : **LON/00AM/LSC/2016/0398**

**Property** : **27 Thrasher Close, Stean Street,  
London E8 4DZ**

**Applicant** : **London Borough of Hackney**

**Representative** : **Mr John Wenham, Legal Services  
(ref: HHO029843/JWE)**

**Respondent** : **Mr Lenville Walker (lessee)**

**Representative** : **In person**

**Type of application** : **Liability to pay service charges**

**Tribunal member(s)** : **Judge Timothy Powell**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **8 February 2017**

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**DECISION**

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**DECISION**

- (1) I determine summarily that the amount claimed by the council, some **£2,888.46**, is reasonable and payable by Mr Walker for the service charges in question (which related to external decorations and associated works), **subject to** any reduction by way of set-off resulting from an award that may be made by the court for damages, following consideration by the court of Mr Walker's counterclaim.
- (2) This matter should now be returned to the County Court at Clerkenwell & Shoreditch for consideration of Mr Walker's counterclaim, the question of interest payable (if any) on any arrears of service charges, and county court costs and fees.

## REASONS

1. The original claim in the county court (claim no. C3QZoZ79) was for unpaid service charges of £2,888.46 for external decorations (carried out in 2012) and £367.51 for the installation of a communal aerial system, together with interest. The lessee, Mr Walker, filed a defence and counterclaim for in excess of £13,000, before the matter was transferred to the tribunal, by order of District Judge Sterlini dated 21 October 2016.
2. At the tribunal's oral case management hearing on 22 November 2016, Mr Wenham for Hackney Council said that the council withdrew the claim for £367.51, leaving the charge for external decorations to be decided. For his part, Mr Walker did not dispute either the statutory consultation procedures or the fact that the works had been carried out; but limited his dispute to the reasonableness of the amount charged, because, he said, the works were not of a reasonable standard.
3. With regard to Mr Walker's counterclaim, it appeared that a number of the issues raised were outside of the limitation period, arose before his purchase of the flat in question under the right to buy scheme, or had already been decided by a previous tribunal. However, even then, it appeared that the remaining claims might still exceed the service charges demanded.
4. While the tribunal's power to determine counterclaims by way of set-off is limited to the amount of service charges in dispute, the tribunal offered to deal with the whole of the counterclaim under the tribunal's Deployment of Judges Pilot. However, as neither party consented to this approach, the tribunal case could only deal with the reasonableness and payability of the unpaid service charges.
5. Further directions were therefore given on 5 December 2016, for Mr Walker to specify, in schedule format, the items of work carried out by the council, why the standard of work was not reasonable and, in his opinion, how matters should be put right. A final hearing was fixed for 13 March 2017.
6. Mr Walker failed to comply with directions and, when pressed by the tribunal to do so, wrote to the council and to the tribunal on 3 February 2017 in the following terms:

“I have decided **not to defend** the claim made by Hackney council to be determined 13th March 2017 ... However, I still intend to proceed with my Counterclaim against Hackney Council and would request that this matter is transferred to the county court in due course.” [*bold in the original*]
7. Accordingly, there being no dispute as to the reasonableness of the service charges claimed, I determine that the sum of £2,888.46 is payable by Mr Walker for the service charges in question (which related to external decorations and associated works), subject to any reduction

by way of set-off resulting from an award that may be made by the court for damages, following consideration by the court of Mr Walker's counterclaim.

8. The council has asked that the £200 hearing fee it paid should be repaid by Mr Walker; however, the appropriate step is for a request to be made to the tribunal for a refund and, to this end, a copy of the council's email of 7 February 2017 will be passed to the appropriate administrative officer for consideration of this request.
9. This matter should now be returned to the County Court at Clerkenwell & Shoreditch for consideration of Mr Walker's counterclaim, the question of interest payable (if any) on any arrears of service charges, and county court costs and fees.

**Name:** Timothy Powell

**Date:** 8 February 2017