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

**Case Reference** : **LON/00AY/LSC/2013/0293**

**Property** : **191 & 193 Sternhold Avenue,  
London SW24PG**

**Applicant** : **Mr Andrew Lancashire**

**Representative** : **Mr A Lancashire**

**Respondent** : **London Borough of Lambeth**

**Representative** : **Lambeth Living**

**Type of Application** : **Costs under Schedule 12 to the  
Commonhold and Leasehold  
Reform Act 2002**

**Tribunal Members** : **Judge John Hewitt Chairman  
Mr Peter Roberts DipArch RIBA**

**Date and venue of  
Determination** : **9 September 2013  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **9 September 2013**

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**DECISION**

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## Decisions of the Tribunal

1. The Tribunal determines that the Respondent shall by **5pm Friday 27 September 2013** pay to the Applicant the sum of £135.20 by way of costs.
2. The reasons for our decisions are set out below.

## Procedural background

3. On 22 April 2013 the Applicant made an application to the Leasehold Valuation Tribunal (LVT) pursuant to section 27A Landlord and Tenant Act 1985 seeking a determination of the amount of service charges payable by him to the Respondent under the terms of his leases of the properties.
4. A pre-trial review of the application was held by the LVT on 28 May 2013. At the pre-trial review the parties arrived at a settlement in the following terms:

*"I hereby withdraw this application subject to the following terms:*

*Lambeth LBC to credit the sum of £6,130.99 to the Applicants bank account below before 22 June 2013.*

[Signed] Andrew Lancashire 28/05/13

*Lambeth LBC agrees to these terms*

[Signed] Lee Robinson for Lambeth LBC 28/5/2013

*Bank Details ..."*

5. Evidently the Respondent did not honour the agreement and did not effect the credit to the Applicant's bank account by the agreed date.
6. The Applicant referred the matter back to the LVT.
7. The functions of rent assessment committees in England (and hence LVTs) were transferred to the First-tier Tribunal (Property Chamber) with effect on 1 July 2013. Accordingly these proceedings are now subject to The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules), save to the extent that the Tribunal may dis-apply all or any of the Rules in favour of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003 (the Regulations).
8. By letter dated 1 July 2013 the Tribunal notified the parties that it would hold a case management conference on 23 July 2013. It did so. The Applicant appeared and represented himself. The Respondent did not appear and was not represented. Directions were issued requiring both parties to serve upon the other a statement of case.

The parties were notified that it was intended to determine the application on the papers unless either of them requested an oral hearing. The Tribunal has not received any such request.

9. The Applicant's statement of case dated 14 August 2013 makes a claim for costs of £635.46 made up as to:

Interest 03.12.12 to 21.06.13	£268.76
Invoice 08.07.13	£231.50*
Loss of earnings PTRs on 28.05.13 & 23.07.13	£120.00
Travel costs on 28.05.13 & 23.07.13	£ 12.80
Postage	£ 2.40

\* The invoice claims further interest  
22.06.13 to 07.07.13 and a daily charge of £30  
From 30.06.13 to 07.07.13.

10. The Respondent's statement of case is dated 29 August 2013. It did not deny it was in breach of the terms of the settlement agreement and claims that the credit was effected on 4 July 2013. It denied that the settlement agreement provided for payment of interest in default. It also denied liability for a daily charge of £30. The Respondent asserts that this sum amounts to a claim to a penalty for late payment. The Respondent did not deny the claims to loss of earnings, travel costs and postage.

#### **The law**

11. Paragraph 10 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002 empowers the Tribunal to make an award of costs incurred in connection with proceedings, limited to £500, in a case where, it is of the opinion that a party has acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.

#### **Decision and reasons**

12. The Respondent does not challenge the claim to costs arising from the claim to loss of earnings, travel and postage. We thus allow these claims because they are not challenged and they are modest and within the range of costs and expenses which a litigant in person may typically incur.
13. We accept the Respondent's submission that the settlement did not make provision for the payment of interest in default. Interest on late paid sums are not costs incurred in proceedings embraced by paragraph 10. We find that we have no power or jurisdiction to make an award of interest. Thus we cannot make any order in respect of the interest claimed.
14. We also accept the Respondent's submission as regards the daily charge of £30. Such a charge is not a cost incurred in proceedings embraced by paragraph 10. The Applicant has not demonstrated any legal basis on

which he is entitled to this sum. We therefore find we have no jurisdiction to make an award for the claim.

15. In the circumstances we have assessed costs in the sum of £135.20. We have given a suitable and appropriate period within which the Respondent is to effect payment.

Judge John Hewitt  
9 September 2013