

*Bene navigavi, cum naufragium feci*<sup>1</sup>





Five Years: January 2007

5 February 2016

Dear \_\_\_\_\_[Solicitor]

We now have the go-ahead from members and trustees to instruct you to handle the return of our deposit. We're still slightly tentative though, due to the relatively high costs and the fact that there are a number of potentially complicating factors. Could you briefly review the matter based on my summary below, and just let us know how confident you are that we have a strong case before we give you the full go-ahead?

The basics are as follows:

- Lewis & Tucker [City Properties Ltd] are holding a security deposit of £4,870.50 (this is documented on the lease)
- They also owe us £207.65 in overpaid buildings insurance (we paid £1245.92 in advance from 1/4/15 - 31/3/16)
- They have now sent us an invoice of £1642.75 for 'interim rent and service charge' from 17th January up until the end of the extension period (31st January): the amount invoiced is £506.00 in excess of the rent we would normally have paid for a half-month. Additionally, as you know, the issue of rent was not discussed at any point either when the extension was initially agreed or following your intervention.
- On Wednesday they emailed us again stating that they will charge us for disposal of waste that we left in the building's yard. This refers mainly to timber and plasterboard (from dismantled partitions we had installed in the unit) that we deposited as neatly as we could (We have photos) next to the industrial-size skip / waste-compactor that is part of the services we have been paying for as tenants: we have been paying a service charge of £439.30 per month and the additional clauses on our lease clearly state under 'The Services' that this covers disposal of waste. There was a large quantity of waste on this occasion but it is a light-industrial building and many tenants regularly leave substantial quantities of material, including piles of furniture, for disposal in the yard (we are normally relatively very light users). Furthermore much of the material we left was already on the premises when we moved in, as we recycled partitions the previous tenants had left (see below) - so we were effectively dealing with their waste anyway.

So although we have not actually discussed the return of our deposit with the landlords yet, the above indicates to me that they will keep trying to subtract anything they think they can get away with. So in relation to the general condition we left the unit in, we need to take into account the following:

- When we originally moved into the building in Autumn 2006, as part of the negotiations to become tenants we offered to take on the unit as it had been left by the previous tenants, thus saving the landlords a lot of preparation work. The unit was in a basic condition - to give you a couple of examples, the concrete floor was uncovered and there were a lot of traces of layers of old floor paint that had been partly removed, the window frames were unpainted and already in a state of considerable deterioration. The unit also had been adapted for domestic use and subdivided with very solidly built partitions which we dismantled and recycled as material to redivide the unit for our own purposes.
- However negotiations at this time were not in writing, and no formal inventory was made. We are trying to track down some photos we took.
- Before leaving the unit on Monday we spent 4 and a half days clearing the space of all partitions and repainting areas of wall and ceiling where required. It is a raw, shell-like unit but we left it in a very presentable condition (see photos). We were in fact not obliged to remove the partitions at all if we understand clause 15 of our lease correctly, but we took responsibility for this feeling that it was necessary to leave the unit in reasonable condition for an incoming tenant to view.
- As we mentioned on the phone many of the window frames are now in very poor condition, both on the exterior and interior. However this is a problem throughout the building (it is an 8 storey building with around 50 units and we are under the understanding that the landlords are planning to replace all the windows within the next year (a contractor and surveyor came round in the summer). So it seemed extraneous for us to do a cosmetic paint job on these, and in fact as many frames are rotting and glass panes are slipping out of some of the windows it seems dangerous to work on them. It should also be noted that a maintenance man who works on-site sometimes had on several occasions carried out patch-up repairs to the interior of the window frames without any additional charge to us.

So to summarise:

We're hoping the landlords don't have any grounds for subtracting anything from the deposit. The lease clearly states (clause 6.1) that we need not improve the property, although you could argue that we did improve it by making good alterations made by previous tenants. Regarding the interim rent, as we've explained previously we were expecting to pay rent for the extension period. However given the landlords' behaviour toward us and the legal cost they are forcing us to incur, if the charge can be shown to be illegitimate that would be helpful.

Please call if you have any questions - the matter is a bit long-winded to explain.  
Five Years

15 February 2016

Dear Five Years

Further to my email last week, I have been able to briefly consider the terms of your lease and summary provided below. My initial view is that:

1. Lewis & Tucker [City Properties Ltd] may be able to claim a sum for rent and service charge for the period 17 January to 31 January 2016. It could be argued that Five Years was able to have the benefit of the use and occupation of the property for the period of the extension, and could therefore be liable for the rent and service charge for the same. There is nothing explicit in the agreement that suggests rent would not be charged for his period.
2. It may be difficult to claim the overpaid buildings insurance. Usually sums paid in advance (e.g. rent) are not subsequently apportioned if the tenant vacates the property early. We can look into this matter further, however our fees for doing so would be disproportionate for the sum you may stand to recover (£207.65).
3. In terms of the security deposit, you could ask for this to be returned and then await Lewis & Tucker's [City Properties Ltd's] response. On the face of it, you are entitled to the return of the deposit, however it is important to appreciate that there is potential for the landlord to bring a dilapidations claim. Without having sight of a schedule of dilapidations and therefore not knowing the exact state of repair of the premises (we cannot rely solely on photographic evidence) and having an expert surveyor review the schedule, we are unable to advise on the potential strength of this claim. Please note that if a claim is brought against Five Years, the legal costs of a dilapidations claim will far exceed the security deposit. Requesting the return of the deposit may spur the opponent into action and cause them to pursue a dilapidations claim, however even if you don't request it, there is no guarantee that they will not bring a dilapidations claim. The landlord may also be entitled to an indemnity for its costs.
4. Under the terms of the lease it appears that Lewis & Tucker [City Properties Ltd] are responsible for the disposal of waste. Accordingly, you could go reply to the company and refer to the specific clause in the lease highlighting this obligation.

In terms of next steps then, my view is that you initially contact Lewis & Tucker [City Properties Ltd] without the involvement of solicitors, seeking the return of the deposit should you wish (noting the risk mentioned above) and highlighting that it is their obligation under the lease to dispose of waste at the property. From a practical point of view, you could negotiate a deduction of their invoice for the interim rent and service charge from the deposit.

I trust that the above is of assistance but please do not hesitate to contact me should you have any further queries.

\_\_\_\_\_ [Solicitor]

15 February 2016

Dear \_\_\_\_\_[Solicitor]

Thank you for your reply, that's all extremely helpful. On that basis we will approach Lewis & Tucker [City Properties Ltd] directly and revert to you if we run into any major problems.

Just a couple of points to clarify if you can before we write to them:

- regarding the interim rent, we obviously have no objection in principle, but are they entitled to set that at whatever level they want? (their figure is around 50% above what we were paying).
- regarding the risk of them instigating legal proceedings re a dilapidations claim: to our knowledge there was no formal inventory made of any kind when we moved in or out - does that make us any less vulnerable? (we certainly left the unit in a presentable condition and did a considerable amount of work).

Five Years

16 February 2016

Dear Five Years

To briefly touch on your points:

- You may argue that the interim rent should be charged at the same rate as that which you were paying during your tenancy, however Lewis & Tucker [City Properties Ltd] may try to argue that they are claiming extra for damages incurred for being unable to have the use and occupation of the property. I suggest that it will be for them to raise this though.
- The fact that there was no formal inventory made when you moved in or out does not affect the landlord's ability to make a claim, and unfortunately this probably wouldn't assist you should a claim be brought. As discussed previously, we would need to consider the matter in further detail to advise properly on a potential dilapidations claim.

I hope the above is of assistance.

\_\_\_\_\_[Solicitor]

31 March 2016

Dear \_\_\_\_\_[Solicitor]

Just writing to say that we have been unsuccessful in securing the return of our deposit from Lewis & Tucker, and are now considering whether to take further steps.

They ignored three successive e-mails on the matter and also neglected to return calls despite persistent attempts to reach Benjamin Goldberg on the phone. We finally spoke to him today however and Mr Goldberg announced that they would not be giving us any money back because of their costs relating to work on the unit.

However they have not presented us with a schedule of dilapidations or otherwise communicated with us in any way since we last contacted you: We did some reading into government guidelines on these matters and there seems to be a clear protocol for how these issues are supposed to be dealt with (i.e. an itemised, quantified schedule and a time frame of 56 days from the end of the lease). While these seem to be legal guidelines rather than strict legal requirements, we wonder if they would give you enough leverage to act on our behalf?

We may need to put this down to experience and ensure we get a surveyor on board on our behalf at the outset in future, but we are essentially in a situation where they are charging us for the costs of improving the premises to justify the higher rents they want, and it's a lot of money for an organization our size.

Five Years

4 April 2016

Dear Five Years

Thank you and my apologies for the delay in response.

Unfortunately Lewis & Tucker's potential failure to follow the dilapidations protocol is not enough to cause them to lose the right to bring a dilapidations claim, however it may result in adverse costs consequences against them should they bring a claim. It is important to note that dilapidations claims can be very expensive, both in their value and in defending them. I cannot advise on the potential value of a claim that Lewis & Tucker [City Properties Ltd] may have (and I am not saying that you would be liable for the same as the following) but I have recently seen cases where claims are in the £100,000's and legal fees to defend the claim to trial may reach in excess of £50,000. Therefore from a commercial view, it may be best to accept the loss of the deposit (£4,870.50) and lessen the risk of Lewis & Tucker [City Properties Ltd] coming back to pursue you.

Please do not hesitate to call should you have any queries.

\_\_\_\_\_[Solicitor]

26 April 2016

Dear \_\_\_\_\_[Solicitor]

Many thanks for getting back to me the other week.

It might be helpful if we could speak to you on the phone briefly just to clarify? Lewis & Tucker [City Properties Ltd] eventually provide further info [see below\*] - they are not pursuing a schedule of dilapidations but they provided a tradesman's invoice to justify their not returning our deposit. It included items that clearly lie outside our responsibilities as set out in the lease, such as a new front door, sink and water heating system.

Five Years

16 May 2016

Dear \_\_\_\_\_[Solicitor]

Thanks for calling the other week.

We have met and decided that - we're not currently in a position financially to take the matter further, however we're trying to raise funds to cover the shortfall of our deposit and if we are successful we may use some of that to pay you to clarify the legal situation for us, at least for peace of mind.

Will be in touch.

Five Years



From: Benjamin Goldberg  
Date: Monday, 4 April 2016 10:19  
To: Five Years

Subject: FW: Unit 66 Regent Studios - Expiry - Deposit - Without Prejudice

\*\*\*RESENT\*\*\*

Dear [Five Years]

Further to our conversation yesterday I attach the requested documents. Please note that under the terms of the Lease my Client [ ] is under no obligation to provide these documents and does so without prejudice and as a gesture of goodwill.

The documents are:

- Schedule of Condition for the Unit
- Rent Invoice for the extended stay period - £1,642.75
- Invoice from LM & LS Baker Heating – please note the first item is not included in this. - £4,140
- Emails showing the amount owed due to underpaid postage - £2.00

Please note that the amounts (£5,784.75) above equal more than your deposit of £4,870.50. I have also not included the invoice for the clearance of the waste matter you dumped at Regent Studios.

Kind regards

Benjamin

Benjamin Goldberg  
Lewis & Tucker  
16 Wigmore Street  
LONDON  
W1U 2RF

City Properties Ltd,  
New Burlington House,  
1075 Finchley Road,  
NW11 0PU  
company no. 03434615

**SCHEDULE OF CONDITION**

**1<sup>st</sup> February 2016**



**UNIT 66  
REGENT STUDIOS  
8 ANDREWS ROAD  
LONDON  
E8 4QN**

**CREATED BY:**



Wohl Building  
2B Redbourne Avenue  
London  
N3 2BS  
Tel: 020 3857 8406

**ON BEHALF OF:**

**LEWIS & TUCKER**  
CHARTERED SURVEYORS  
EST. 1932

**GENERAL DESCRIPTION AND CONDITION**

The property is a 1910 sq ft commercial unit consisting of large studio.  
Property requires clean throughout as noted.  
Sign of partition removal, damages and wear present.

**CONTENTS  
ENTRANCE**





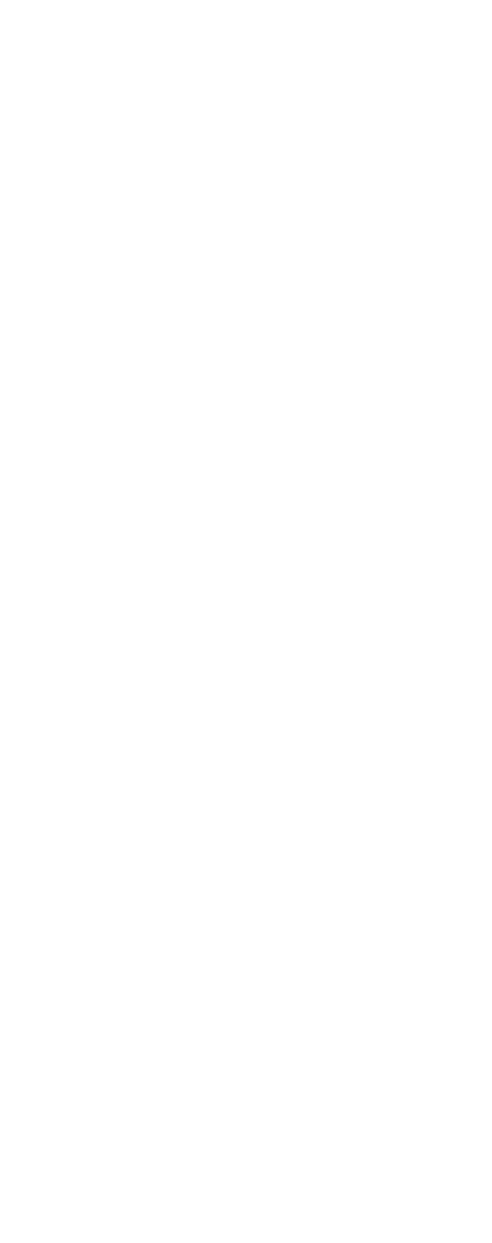




FRONT DOOR

1. Black painted multi panelled wooden front door	Slightly worn condition, worn and scuffed to interior
2. White numeral "66" painted to high level left hand side	Neither working
3. 2 x doorbell buttons attached to exterior	
4. Letterbox flap to left hand door	
5. Chubb lock fitted	
6. Bolt lock to centre	
7. Night latch to interior	
8. "FIRE EXIT" to interior	Dirty
9. Total of 3 bolt locks to interior	
10. Chubb lock fitted	
11. Fire exit door to far side of room with 1 panel missing and MDF placed in situ, selection of 2 bolts, Chubb lock and padlock bolt attached	Padlock bolt bolted in place, door in worn condition

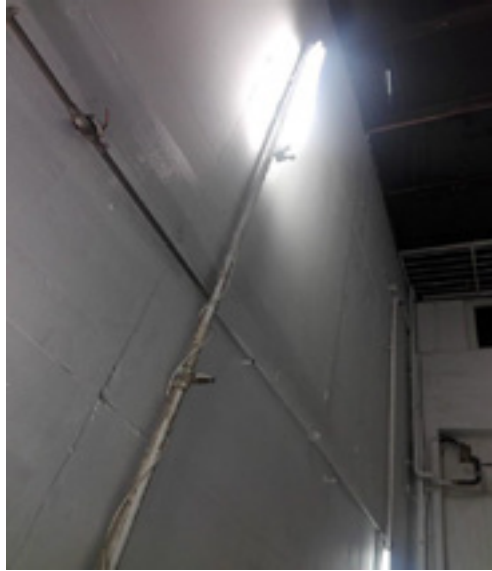
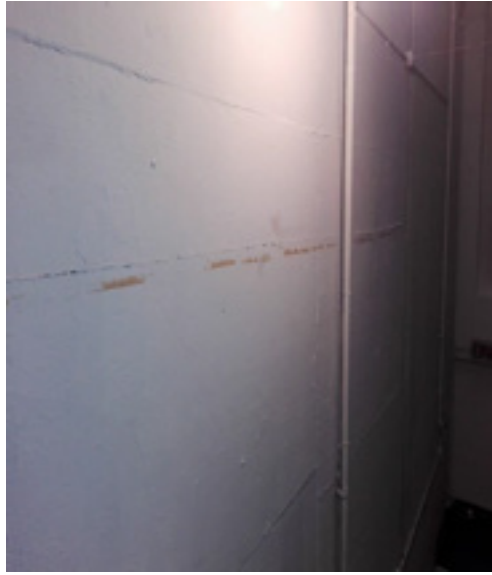
WINDOWS



- |   |   |
|---|---|
| <p>12. Selection of windows along left hand wall to include 1 double glazed panel at immediate right of entrance with clear glass panels following</p> <p>13. Selection of metallic handles attached</p> <p>14. Selection of window panels along left hand wall with white metallic grill to 1<sup>st</sup> panel and secured glass panel</p> <p>15. Followed by clear glass panels</p> | <p>Heavily discoloured throughout, flaking to paintwork at low levels, some units painted white</p> <p>5 handles missing, 1 cracked to low level left hand side of approximate centre, tape residue / paint in places, window panels require clean</p> <p>All panels require clean, water style damage to low level in places, some with repair to frame noticable</p> <p>6 handles missing</p> |
|---|---|



CEILING



16. White painted concrete ceiling

Slight patchy paintwork in places, light sticker residue near entrance, L shaped partition corner noticeable to forward right hand with wall plugs and hooks seen, few random hooks and screws scattered, slight damaged area towards back left corner, 4 red wall plugs near far side of room, partition area to centre left of room with large selection of holes, 4 holes with wall plugs in just forward of electric meters, L shaped partition removal area near entrance, large selection of holes in kitchen area

LIGHTS

- 17. 3 double florescent
- 18. 3 single florescent
- 19. 1 pull string and 1 metallic chain pull and 1 wire attached to power socket

WALLS

20. White bricks painted throughout

Slightly patchy paintwork in places, worn and discoloured to right hand side of entrance, drip style splash mark to left hand side of heater, numerous wall plug holes to forward wall, different shade paint work in different areas from removal of partitions, selection of wall plug holes visible to far side of left window casement from previous electric cable continuation,

FLOOR





21. Part grey painted, part cement / brown painted with numerous partitioned areas visible

Patchy in places, heavily worn in areas, area of black paint style splash near centre of room and slight dug out area near central support beam, dirty, could do with clean, red varnish / tarnish area below far left back fan heater

FRAMES



- 22. Wooden window frames
- 23. Stone tiled windowsills

Heavily worn as pictured  
Very dirty and dirty, part painted white to left of left hand window casement

ELECTRICS



24. Selection of switches and sockets as fitted

All working, 1 socket junction cover plate not seen although no junction seen to interior, cable boxing from and surrounding electric meters not covered, large fuse switch in kitchen area in "off" position, further lighting style string pull to far side of room near fire exit metallic chain (no visible light turning on when used – open pendant next to pull)



string pull to left hand side of fire exit (use unknown) white string pull in kitchen area with small high level light fixture next to interior (working, string pull very short) all sockets grubby and require clean

25. Double telephone socket attached to centre of window frame  
right hand side

Cable cut, not functional

HEATING



26. Wall mounted gas heater to right hand wall forward right of entrance

No gas supply and not working at time of inspection, heavily worn to top surface

MISCELLANEOUS

- 27. 3 x wall mounted electric meters
- 28. Wall mounted fuse box
- 29. Wall mounted "Zip Contract" electric water heater
- 30. 2 x wall mounted taps
- 31. Wall mounted large white ceramic rectangular sink basin
- 32. Pipework from sink going into wall
- 33. 1 large and 1 small grey waste pipe fitted below gas meter area with metallic support above
- 34. 3 x metallic high level wall mounted fan heaters
- 35. 1 matching unit painted pink to far side opposite entrance
- 36. Water sprinkler pipes attached to ceiling as fitted

Not functional at time of inspection  
Working

Very dirty and discoloured throughout to interior, requires professional clean

All closed off and not functional

Unable to power on at time of inspection  
Unable to power on at time of inspection

- |   |   |
|---|---|
| <p>37. Electric cable piping into ceiling in places<br/>38. Electric cable pipework across centre of room<br/>39. Fire alarm bell attached to wall immediate left hand side of entrance</p> | <p>Some not functional<br/>Some areas open, dirty in places</p> |
|---|---|

**KEYS**

Access via site manager



<b>SERVICES</b>	<b>LOCATION</b>	<b>SERIAL NO</b>	<b>READINGS</b>	<b>PICTURE</b>
<b>ELECTRICITY</b>	Far side of door wall near Fire Exit	L82A 29300	00681.0	
<b>GAS</b>	Meter removed			

# LEWIS & TUCKER MANAGEMENT

*Chartered Surveyors*

16 Wigmore Street · London W1U 2RF  
Tel: +44 (0)20 7323 2321 · Fax: +44 (0)20 7323 2322 · Email: [contact@lewis-tucker.com](mailto:contact@lewis-tucker.com)

To: **Five Years Ltd**  
**Unit 66**  
**6th Floor**  
**Regent Studios**  
**8 Andrews Road**  
**London**  
**E8 4QN**

*For Property:*  
**Unit 66, 6th Floor, 8 Andrews Road**

*Tenant No:* **092/AND/066**  
*Demand Date:* **19 Jan 2016**  
*Demand/Invoice No:* **9132**  
*Landlord VAT No:* **702271085**

## INVOICE/DEMAND FOR PAYMENT

Description/Heading	Due Date	Net Amount Due	VAT @ 20%	Gross Amount Due
Interim Rent 17/01/16 – 30/01/16	17 Jan 2016	1,200.00	240.00	1,440.00
Interim Service Charge 17/01/16 – 30/01/16	17Jan2016	168.96	33.79	202.75
<i>Total this Demand:</i>				1,642.75
<i>Brought Forward Arrears:</i>				0.00
<i>E&amp;OE</i>				<b>£1,642.75</b>
<i>Balance to pay:</i>				<b>£1,642.75</b>

### NOTES AND INSTRUCTIONS FOR PAYMENT

- 1. For BACS Payments:**  
**Bank: RBS, Lewis & Tucker Management Ltd C/A CPL Ltd Andrews Rd, Account no: 00655253, Sort Code: 160028.**
2. Cheques should be made payable to Lewis & Tucker Management.
3. Enclose completed remittance slip with your payment.
4. Please provide breakdown if full Balance is not paid or payment will be allocated at our discretion.
5. Interest may be charged on late payment in accordance with your lease terms.
6. Payments made after the Demand Date have not been accounted for.
7. If you require a receipt please indicate on remittance slip and send a stamped addressed envelope.
8. Address for service of Notices upon Landlord - c/o Lewis & Tucker Management.
9. Payment is requested Without Prejudice or Waiver to the Landlord's rights to remedy Breaches.
10. Lewis & Tucker Management Limited act as Agents for your Landlord:

Andrews Admin  
c/o Lewis & Tucker Management, 16 Wigmore Street, London W1U 2RF

### REMITTANCE SLIP - PLEASE COMPLETE AND RETURN WITH PAYMENT

*For Property:* **Unit 66, 6th Floor, 8 Andrews Road**  
*Tenant Name:* **Five Years Ltd**  
*Tenant No:* **092/AND/066**  
*Demand Date:* **19 Jan 2016**  
*Demand No:* **9132**

*Signature* \_\_\_\_\_

*Description/Heading to be credited with this payment:-*

<b>Rent (G/R)</b>	<b>£</b>
<b>Service Charge</b>	<b>£</b>
<b>Insurance</b>	<b>£</b>
<b>Sinking Fund</b>	<b>£</b>
<b>(Other)</b>	<b>£</b>
<b>Total Enclosed</b>	<b>£</b>

Lewis & Tucker Management  
16 Wigmore Street  
London W1U 2RF

If you require a receipt tick box and send a stamped addressed envelope.  
Please do not send cash in the post.

# INVOICE

## LM & LS BAKER HEATING

361 Hatton Road, Bedfont  
Middlesex TW 14 9QS  
Tel: 020 8890 0035  
VAT Reg N<sup>o</sup>: 208 3420 93

06938

TO Lewis Tucker Management DATE 14.3.16 JOB N<sup>o</sup>.....  
16, Wigmore Street JOB NAME Regent Studios  
London JOB LOCATION Unit 66  
 TERMS W14 2RF

DESCRIPTION	PRICE	AMOUNT
To Strip out all old trunkings, cables, sockets and make ceilings and walls good.		
To Repair window frames and fit new handles where necessary.		
To Replace main entrance doors to unit and repair fire exit door		
To Supply and fit new sink unit, complete with taps, waste connections, tubes and fittings		
To Supply and fit a 7 litre water storage heater over sink		
To Apply 1 or 2 coats where necessary to walls and ceiling (vinyl matt emulsion)		
To Undercoat and gloss all windows, doors & frames		
To Apply 1 coat of concrete floor paint throughout the unit		
<b>LEWIS &amp; TUCKER</b> AMOUNT <u>4,140.00</u> RECEIVING <input checked="" type="checkbox"/> YES / NO PAYMENT <u>CH21 AMT</u> AND <u>Rent</u> CAPITAL <input checked="" type="checkbox"/> YES / NO <u>02/16/16</u>		VAT 20% <u>£3450.00</u> <u>690.00</u> <u>£4140.00</u>

Thank You  
 This should be recovered from  
 0921 AMT / unit 66 deposit.

FIVE YEARS  
UNIT 66  
8 ANDREWS RD  
E8 4QN

REF:  
**9739 - SU**

SURNAME: Andrewe admin  
ADDRESS: Lewis & Tucker, 7B  
Wigmore Street, LONDON  
POSTCODE: W1U 2RF  
REASON: DATE BOOKED: 23/11/2015  
AMOUNT DUE: THE SENDER DID NOT PAY THE FULL POSTAGE  
£ 2.00



## Receipt for payment

This is a receipt for the payment  
of SURCHARGE FEE



date

25/11/15

amount paid

£ 2 - 00

Signed for on behalf of Royal Mail

<sup>1</sup> *When I am shipwrecked, I have navigated well* - Nietzsche *The Case of Wagner: A Musician's Problem*