

**IN THE DISTRICT COURT
AT MANUKAU**

**CIV-2015-057-000066
[2016] NZDC 4457**

BETWEEN WAIKATO DISTRICT COUNCIL
 Plaintiff

AND ALWYN CAIE
 Defendant

Hearing: 16 March 2016

Appearances: F Peters for the Plaintiff
 Defendant appears in Person

Judgment: 16 March 2016

ORAL JUDGMENT OF JUDGE P A CUNNINGHAM

[1] This is a claim by the Waikato District Council for outstanding rates in relation to a property at [address deleted] that belongs to the defendant Alwyn Caie. The statement of claim alleges that Mr Caie has not paid his rates since 2010. The amount said to be owing is in the sum of \$7098.34.

[2] Mr Caie has filed a statement of defence that was received in the Court at Pukekohe on 31 August 2015. The council's position is that the statement of defence does not offer a valid defence in relation to the claim. What it is, if anything, is a counterclaim or a separate claim in relation to allegations of negligence and other actions of the council that Mr Caie is not happy with. In his mind the two things are linked. He is refusing to pay his rates on the basis that he has been overcharged.

[3] The origin for his views about that come down to a council inspection report in relation to the house on the site that he says was worse than inaccurate. That is, an inspection report dated 29 July 1998. As a result of what he says is a wrong report

prepared by the council his house has suffered damage, damage in the sense that this is a leaky home.

[4] In the statement of defence and counterclaim Mr Caie explains his concerns in this regard but, dates and other facts that need to be specified to make it a viable statement of defence or counterclaim are missing. For example, by saying Quotable Value has reduced those values by nearly 50 percent. Apparently that relates to a valuation of the property and Mr Caie has told me that valuations of the property on which the rates assessment are based are too high. He tells me he did write and complain about the valuation but nothing came of it.

[5] In the document he also complains about the state of the road where the house is, and the damage that has been caused to his vehicle as a result of an inadequately up kept road.

[6] I have doubts whether this document forms a counterclaim that is going to survive any strike out application in relation to the claim but, certainly insofar as this document is a defence to the council's claim for rates, I agree that it should be struck out. Because it is unclear which part of the document is a statement of defence and which part of it is a counterclaim, I am striking the whole document out. If Mr Caie wishes to proceed with a claim against the council in relation to the house and/or the road, and/or valuations of the value of the house upon which the rates were based then he will need to file a new document. I have explained to him that he probably needs legal advice in order to do that and he could possibly avail himself of the services of the Citizens Advice Bureau or the local Community Law Centre in order to progress that.

[7] At this stage however, I am satisfied that pursuant to r 15.1 District Court Rules 2014 there is no reasonably arguable defence in the pleading referred to, and that this is a proper case to strike the statement of defence and counterclaim out.

[8] The council can now apply to proceed by way of formal proof. Costs are reserved.

P Cunningham
District Court Judge