



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

**Case Reference** : **BIR/37UC/PHC/2019/0006**

**Property** : **5 St Oswalds Park, Dunham on Trent,Notts,NG22 0UB**

**Applicant** : **Dianna Susan Moss**

**Respondent** : **John Holland**

**Representative** : **IBB Solicitors**

**Type of Application** : **An application under section 4(1)(a) Mobile Homes Act 1983 (as amended) for the Tribunal to determine any question arising under this Act or any agreement to which it applies.**

**Tribunal Members** : **Judge T N Jackson  
Ms A Rawlence MRICS**

**Date of Decision** : **9 May 2019**

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**DECISION**

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## **Decision**

**The Applicant has seen copies of the water charges levied on the Park for the period up to 30<sup>th</sup> May 2017 in relation to used water and to 31<sup>st</sup> May 2017 in relation to the supply of clean water. We determine that the Respondent is not required to provide to the Applicant copies of the water charges levied on the Park for the periods 31<sup>st</sup> May 2017 to 28 February 2018 inclusive in relation to used water and 1<sup>st</sup> June 2017 to 28 February 2018 inclusive in relation to the supply of clean water.**

### **Reasons for decision**

#### **The Issue**

1. The Tribunal is asked to consider whether the Respondent is required to provide the Applicant with copies of the water charges levied on the Park for the period April 2017 to March 2018 (“the relevant period”).

#### **Background**

2. The Application is made by Ms Diana Moss, (“the Applicant”), the owner and occupier of a residential park home stationed on pitch 5 of St Oswalds Park, Dunham on Trent, Newark, Nottinghamshire NG22 0UB (“the Park”). The Park is a protected site within the meaning of the Mobile Homes Act 1983.
3. Mr John Holland (“the Respondent”) was the owner of the Park until 1 March 2018. Since 1<sup>st</sup> March 2018, the legal rights and responsibilities of the site owner of the Park under the Agreement passed to the Respondent’s son, Mr Alec Holland, on his acquisition of the Park from the Respondent.
4. The Applicant entered into an Agreement on 12<sup>th</sup> November 2014 but we have not been provided with a copy of the Agreement. It is accepted by the Applicant that in addition to her monthly pitch fee she is liable to pay separate charges towards the cost of the supply of clean and used (waste) water used on the Park. None of the homes on the Park are separately metered for clean or used water usage and consequently the provisions of the Water Resale Order 2006 apply to the Park. The Respondent divides the total of the bills equally between the 43 occupied homes
5. Two separate water providers supplied the Park during the relevant period, namely WaterPlus, (a trading name of Severn Trent Water), who supplied used water and Anglian Water, who supplied clean water.
6. The Applicant has requested copies of the water bills for the period between April 2017 and March 2018.
7. The Applicant’s application includes copies of bills covering the period up to 31<sup>st</sup> May 2017 for the supply of water and up to 30<sup>th</sup> May 2017 for used water (Documents 9 and 10 respectively). The Respondent has been unable to locate any invoices after the dates of these invoices from either of the two water suppliers. The Respondent had requested copies of any relevant invoices from the two suppliers but had not received a response as at the date of his submission to the Tribunal.

8. By an undated letter in 2018, the Respondent and the new owner stated that as a gesture of goodwill all charges for water from 31<sup>st</sup> May 2017 to 30<sup>th</sup> April 2018 would be absorbed by the Respondent. It stated that the next water bill would be backdated from March 2018 onwards, the date the new owner took ownership of the Park (Applicant's Document 8).

### **The Law**

9. The Mobile Homes Act 1983 provides at section 4 (1):

*In relation to a protected Site in England [or in Wales], a Tribunal has jurisdiction-*

- (a) to determine any question arising under this Act or any agreement to which it applies; and*
- (b) to entertain any proceedings brought under this Act or any such agreement, subject to subsections (2) to (6).*

10. Our jurisdiction is limited to determining a question arising under the Act or any agreement and that may involve us in interpreting the provisions of the agreement. Enforcement of any obligations under the Act or agreement is a matter for the County Court.
11. The legal framework regarding park home Sites is set out in the Mobile Homes Act 1983 as amended. In essence it says that people who acquire park homes and put them on a pitch in a registered park home Site have the protection of an occupation agreement. The 1983 Act sets out very detailed implied terms for each agreement and which cannot be excluded by the Site owner.
12. It is accepted by both parties that the statutory implied terms of Schedule 1, Part 1 of the Mobile Homes Act (as amended) apply to the Applicant's occupation of her mobile home.
13. Paragraph 22(b) of the statutory implied terms in Schedule 1, Part 1 of the Mobile Homes Act states that:

*"The owner shall, if requested by the occupier, provide (free of charge) documentary evidence in support of and explanation of-*

- (i) any new pitch fee;*
- (ii) any charges for gas, electricity, water, sewerage or other services payable by the occupier to the owner under the agreement; and*
- (iii) any other charges, costs or expenses payable by the occupier to the owner under the agreement".*

### **The Inspection/ Hearing**

14. Neither party requested an inspection or a hearing and we therefore considered the matter on the basis of the written submissions.

## **The submissions**

### The Applicant

15. The Applicant submits that she is entitled to see the water bills for the Park for the relevant period as she considers that she has been paying too much. She submits that the new owner, who is the Respondent's son, has been the park owner jointly with his wife since 11<sup>th</sup> November 2014 based on a letter head (Document 11A) and therefore he should have access to the relevant bills.

### The Respondent

16. The Respondent submits that as he agreed to waive his entitlement to charge the residents for water for the period between 31<sup>st</sup> May 2017 and 1<sup>st</sup> March 2018 (when he sold the Park), the Applicant is not entitled to receive copies of any water bills covering that period as there are no "*charges payable by the occupier to the owner under the agreement*". No water charges have been levied upon the Applicant or any other resident of the Park for the period 31<sup>st</sup> May 2017 to 1<sup>st</sup> March 2018.
17. Further, it is submitted that the Respondent is not responsible for the provision of any invoices covering the period after he sold the Park.
18. The Respondent submits that the issue of whether the actual amounts charged to the Park for water and drainage water charges are reasonable is not a matter for the Tribunal to determine.
19. The Respondent states that the application is frivolous, vexatious and/or an abuse of the Tribunal's process on the basis that the same or broadly similar issues were addressed in an earlier Tribunal application (Reference BIR/37UC/PHC/2017/0007 determined on 13<sup>th</sup> March 2018 in which the Applicant's son (who also lives on the Park) was the principal Respondent and in which the Tribunal held that copies of all the relevant invoices had been provided to the residents, and that the residents had been properly charged for water. The Respondent invites the Tribunal to dismiss or strike out the application.

## **Decision**

20. We considered all the written evidence submitted.
21. We do not consider the application to be frivolous, vexatious or otherwise an abuse of the Tribunal process. The previous decision relates to different park residents although it is noted that one is the Applicant's son. The previous decision relates to allegations regarding water leaks; failure to provide information and the duplication of used water charges and relates to the period 1<sup>st</sup> April 2016 to 18<sup>th</sup> December 2016. This is not the period with which we are concerned. We do not strike out the application.
22. We have considered the period April 2017 to March 2018 as detailed in the application. The Applicant has received copies of the suppliers' charges for the Park for the period up to 31<sup>st</sup> May 2017 and 30<sup>th</sup> May 2017 for used water and the supply of clean water respectively.

23. In relation to the period after 30<sup>th</sup> and 31<sup>st</sup> May 2017 in relation to the respective supplies, we accept the Respondent's submission that there is no requirement to provide copies of the bills for the period covered by the goodwill gesture when no charges were levied against the park residents for water. As no charges were payable by the Applicant as occupier for that period, then paragraph 22(b) of Schedule 1 Part 1 of the Mobile Homes Act 1983 does not apply and the Respondent is not required to provide the information.
24. However, there is an inconsistency in the "goodwill gesture" letter as to the period to which it applies as it refers to all charges being absorbed for the period between 31<sup>st</sup> May 2017 to 30<sup>th</sup> April 2018 but also states that the next water bill will be back dated from March 2018 onwards, the date on which ownership changed (1<sup>st</sup> March 2018).
25. In the light of this inconsistency, we conclude that charges may be made from 1<sup>st</sup> March 2018 at the earliest. We determine that the Respondent is not required to provide to the Applicant copies of the water charges levied on the Park for the periods 31<sup>st</sup> May 2017 to 28 February 2018 inclusive in relation to used water and 1<sup>st</sup> June 2017 to 28 February 2018 inclusive in relation to the supply of clean water.
26. The issue of the reasonableness or otherwise of the water charges for this period does not arise as there was no such charge to the Applicant.

#### **Costs**

27. No application for costs was made by either party.

#### **Appeal**

28. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal

Judge T N Jackson