



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

Case Reference : CHI/00HE/PHI/2019/0055

Property : 4 The Copse, Trehiddle Park, St Austell, Cornwall PL26
7AD

Applicant : South Cornwall Park Homes

Representative :

Respondent : Ms. K. Armstrong

Representative :

Type of Application : Review of pitch fee

**Tribunal
Member(s)** : Judge D.R. Whitney

Date of Decision : 8th May 2019

DECISION

BACKGROUND

1. The Applicants are the owners of residential mobile home park known as The Copse, Trewiddle Park, St Austell, Cornwall. The Respondent occupies 4 The Copse, Trewiddle Park (“the Mobile Home”) under an agreement which commenced on 21st July 2000 and which appears from the papers to have been assigned to the Respondent in or about August 2017.
2. The Applicant made application to the Tribunal dated 15th January 2019 for a determination of the new level of pitch fee under paragraph 16 of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (as amended) (“the Act”).
3. Directions were issued by the Tribunal dated 12th February 2019 and the Applicant has supplied a bundle of papers for the determination. References [] are to page numbers within the hearing bundle.

THE LAW

4. The Applicant relies upon paragraph 20(A1) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (as amended). This gives rise to a presumption that the level of the pitch fee shall increase or decrease by a percentage which is no greater than the percentage increase or decrease of the Retail Prices Index calculated by reference to:
 - (a) The latest index
 - (b) The index published for the month which was 12 months before that to which the latest index relates
5. The Tribunal can decide if it is reasonable for the pitch fee to be changed and whether it is unreasonable for the fee to increase or decrease in accordance with the relevant Retail Prices Index for the relevant period and has regard to all of the relevant evidence, but, particularly to the factors detailed in Paragraph 18 of Schedule I, Part 1 of Mobile Homes Act 1983 (as amended).

DETERMINATION

6. The Applicant indicated within their application from that they were content for the matter to be determined on the papers supplied. No request for an oral hearing was received from the Respondent and the Tribunal has proceeded to determine the matter on the bundle of papers supplied by the Applicant.
7. Notice of increase was served by the Applicant on the Respondent in the prescribed form dated 24th September 2018 [7-14]. The Notice proposed that the rent would rise from 1st November 2018 to £189.45. The previous pitch fee payable from 1st November 2017 was £183.45.

8. The increase has not been agreed by the Respondent. The Respondent provided a statement of her objections [32]. Ms Armstrong refers to the fact that in her opinion the increase linked to RPI is more than inflation. Further she disputes that there have been any improvements or changes made by the site owner. The Application form [3] refers to the site owner having spent money on improvements. The Respondent also refers to money she has herself spent on her home.
9. The notice of proposed increase was served more than 28 days prior to the date of the proposed increase being 1st November 2018. A copy of the Agreement is at [37-47]. The proposed date of increase is in accordance with the review clause contained at clause 7 of Part IV of the written statement [43]. The application to this Tribunal was made within 3 months of the date of the proposed review and the Tribunal is satisfied that all statutory timescales which the Applicant is required to comply with have been adhered to.
10. The Applicant contends that the Retail Price Index for August 2018 (being the last published index prior to service of the notice) gave an increase of 3.5%. The Applicant only seeks an increase in respect of an RPI adjustment. The Applicant has also allowed a deduction of 42p. When this is applied to the previous pitch fee of £183.45 this gives an increase of £6.42 to which is then applied the deduction of 42p giving a new pitch fee of £189.45. This is the amount the Applicant has contended should be the new pitch fee level.
11. The Applicant did file a statement and witness statement in reply [30 & 31]. This refers to the fact that RPI is the Index to be used. Further the statement sets out that the park remains in the same or a better state and it has not deteriorated. The witness statement of Mrs Nolan refers to works having been undertaken to upgrade the electricity supply although it is not clear when such works took place.
12. The Tribunal is satisfied that the Applicant has complied with the Act. The Applicant has not sought any changed based on improvements to the site but simply an RPI increase in accordance with the Agreement and statute. The Tribunal was not satisfied that the Respondent has demonstrated any grounds to depart from the increase. The Tribunal therefore determines it is reasonable and proper for the pitch fee to be increased. **The Tribunal determines that the new pitch fee payable by the Respondent to the Applicant from 1st November 2018 is £189.45.**

Judge D.R. Whitney

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.