



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : CAM/00MB/PHI/2019/0003

Park Home Address : 4 Beech Close Crookham Park, Crookham
Common, Thatcham, RG19 8EA

Applicant : Dr P L Pratt

Respondent : Mrs Sandra Painting

Type of application : Rule 13 costs

Tribunal members : Mary Hardman FRICS IRRV(Hons)
Judge Wayte

Date of Decision : 26 June 2019

DECISION

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1. The application is dismissed

Background and application

2. This was an application for the Tribunal to determine the new level of pitch fee for 2019 in respect of a Park Home. The Applicant was the site owner and in the absence of agreement by the occupier to the increase in pitch fee must apply to this Tribunal in order to obtain such an increase.
3. The Tribunal issued directions on 25th March 2019 saying that the Tribunal proposed to deal with this application by considering the papers only, without a hearing, and would do so on or after 10th May 2019
4. Statements of case were received from both parties and the tribunal determined that there was no basis for finding that it was unreasonable for the pitch fee to be changed and the Tribunal therefore concluded that the proposed pitch fee increase was reasonable.
5. On 10th June 2019 the Tribunal received the Applicant's costs application

Determination

6. This is an application for costs pursuant to Rule 13 of the **Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013**. The amount claimed is a proportion (unstated) of the total costs of £497.26.
7. The sole ground for such an application is that a party has “*acted unreasonably in bringing, defending or conducting proceedings*” (rule 13(1)(b)). The reasons why the Applicant considers that the Respondent has behaved unreasonably is that in her statement of case she claimed that she has never seen a copy of the Written Statement for the park home.
8. He states he cannot be responsible for the previous owner not passing on the Written Statement and correct information on pitch fees to the Respondent.
9. The law concerning these applications has been helpfully considered in detail in the Upper Tribunal case of **Willow Court Management Co. (1985) Ltd v Alexander** which was heard with 2 other cases under citation number [2016] UKUT 290(LC). This must now be considered as the leading case on these applications.
10. The first thing to be determined is the nature of the unreasonable conduct. Willow Court confirmed that the definition of unreasonable conduct is still, in essence, that set out by the then Master of the Rolls in **Ridehalgh v Horsefield** [1994] Ch 205. At pages 232 and 233 in that judgment, ‘unreasonable’ is said to be “*conduct which is vexatious, designed to harass the other side rather than advance the resolution of the case, and it makes no difference that the conduct is the product of excessive zeal and not improper motive. But cannot be described as unreasonable simply because it leads in the event to an unsuccessful result*”.
11. In its decision the Tribunal set out its summary of the Respondent’s reasons for believing that the increase was not justified - which detailed a number of areas of discontent that it will not repeat here. However, none of these related to either the fact that she stated that she did not have a Written Statement nor that she potentially misunderstood the level of the previous pitch fee.
12. However, it has no reason to disbelieve the Respondent’s statements in this respect.
13. The Tribunal finds it hard to understand how the actions of the Respondent could be viewed as in any way unreasonable when she was merely making a statement of fact, and indeed one which was not fundamental to her case submission.
14. Accordingly, the Tribunal has no difficulty in dismissing this case.

Mary E Hardman FRICS IRRV(Hons)
Deputy Regional Valuer
26 June 2019

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.