



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

Case Reference : **MAN/13/UB/PHI/2021/0012**

Property : **14 The Coppice, Ashwood Park,
Wincham CW9 6QS**

Applicant : **Tingdene Parks Limited**

Respondent : **David Featherstone
and Eileen Featherstone**

Type of Application : **For determination of pitch fee**

Tribunal Judge : **A M Davies, LLB
J Jacobs, MRICS**

Date of Determination : **16 March 2022**

Date of Decision : **24 March 2022**

DECISION

DECISION

- 1) The annual pitch fee payable by the Respondents from 1 April 2021 is £1858.20.
- 2) The Respondents shall pay the £20 application fee to the Applicant.

REASONS

THE APPLICATION

1. The Respondents own a park home on a pitch at the Applicant's regulated site at Ashwood Park, Wincham. Their occupation of the pitch is governed by a Written Statement dated 18 August 2016, which sets out the express terms of their agreement with the Applicant and also the Implied Terms included in the contract by virtue of Chapter 2 of Schedule 1 Part 1 to the Mobile Homes Act 1983 ("the Implied Terms").
2. The Applicant has produced to the Tribunal a copy of a Pitch Fee Review Form dated 28 January 2021 which complies with the requirements of the Implied Terms. The Tribunal has also seen a copy of the Applicant's letter of the same date addressed to the Respondents and enclosing the Review Form. The Review Form states that the relevant RPI percentage increase is 1.2%, and proposes an increased pitch fee of £1858.20 to take effect on 1 April 2021.
3. The Respondents did not agree to pay the increased pitch fee, and the Applicant therefore applied to this Tribunal on 29 June 2021 for a determination of the pitch fee pursuant to paragraph 17(8) of the Implied Terms.
4. The parties did not request a hearing, and this application has therefore been determined on the basis of papers submitted by the Applicant and the Respondents.

RESPONDENT'S CASE

5. The Respondents deny that the Applicant complied with the statutory procedure for a pitch fee review, saying that "the imposed increase was done without any due process at all and well in excess of RPI."
6. They also object to the level of the pitch fee generally
 - (a) because of the circumstances surrounding their purchase of their park home from the former owners, Mr and Mrs Beresford in August 2016, and
 - (b) because they say the pitch fee is considerably higher than the pitch fees paid by occupiers of comparable pitches at Ashdown Park.

THE REVIEW PROCESS

7. The Tribunal finds that the Applicant followed the correct process in preparing and serving the Pitch Fee Review Form in January 2021. The Respondents have corresponded with the Applicant regarding this pitch fee review since 2 March 2021, but the Tribunal has seen no evidence that they raised lack of due process as an issue until it was mentioned at the end of Mr Featherstone's statement dated 7 March 2022.
8. The proposed pitch fee is increased by a percentage which is at, or indeed slightly lower, than the RPI percentage increase for the 12 month period prior to the Pitch Fee Review Notice.

WRITTEN STATEMENT EXPRESS TERMS

9. The Written Statement signed by the Respondents on 18 August 2016 gives them the right to keep a park home at Ashwood Park from 15 August 2016 on payment of an annual pitch fee of £1675.80. This pitch fee is stated to exclude the cost of any services to their park home.
10. The Respondents discovered that Mr and Mrs Beresford, from whom they had purchased their park home, had been paying a much lower annual pitch fee under an earlier form of contract issued by a previous owner of Ashwood Park. The Respondents object to pay the higher pitch fee they agreed to in August 2016, because prior to completing their purchase of the park home they were not told what the new pitch fee would be. They say that they believed that the Applicant would continue to charge a similar pitch fee to that paid by Mr and Mrs Beresford.
11. The Tribunal finds that the Applicant had agreed with Mr and Mrs Beresford and other residents of the park that they would not assign their existing contracts to the buyers when their park homes were sold. Pursuant to this agreement Mr and Mrs Beresford terminated their contract with the park owner on selling their park home to the Respondents. The Applicant therefore required the Respondents to enter into a new Written Statement.
12. Moreover the Written Statement signed by the Respondents included a notice that they were entitled to object to its terms, as follows:

Six months time limit for challenging the terms

9. You must act quickly if you want to challenge the terms. If you or the site owner make no application to a tribunal within six months of the date on which you entered into the agreement or the date you received the written statement, whichever is later, both you and the site owner will be bound by the terms of the agreement and will not be able to change them unless both parties agree.

Unfair terms

10. If you consider that any of the express terms of the agreement (as set out in Part 3 of this statement) are unfair, you can, in accordance with the provisions of the Unfair Terms in Consumer Contracts Regulations 19991 complain to the Office of Fair Trading or any qualifying body under those Regulations.

The Respondents did not take either of these steps.

PITCH FEE DISCREPANCIES

13. Over time discrepancies in pitch fees across a park home site occur for a number of reasons, including the park owner's wish to update arrangements for payment of services and to bring pitch fees in line with the rates charged for new pitches. There is no assumption that pitch fees paid by different park home owners on a site should remain at similar levels.

14. COSTS

In a statement dated 9 March 2022 Mr J Pearson, the Applicant's Operations Director, informs the Tribunal that the Respondents put forward the same arguments against the pitch fee increase that took effect on 1 April 2020. The Applicant made an application for determination of that pitch fee, case number MAN/00CB/PHC/2020/0002. The Respondents' arguments were not pursued following a directions order dated 29 December 2020 in those proceedings.

15. The Applicant requests that the Respondents be ordered to reimburse the application fee of £20. In the circumstances this is reasonable and the Applicant is entitled to recover £20 from the Respondents.

Tribunal Judge AM Davies
24 March 2022