



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

**Case Reference** : **CHI/00HE/PHI/2022/0065**

**Property** : **13 Little Trelower Park Trelowth St  
Austell Cornwall PL26 7DU**

**Site Owner/ Applicant** : **Wyldecrest Parks (West) Ltd**

**Representative** : **Mr Sunderland**

**Park Home Occupier/  
Respondent** : **Mr J and Mrs C Spoard**

**Representative** : **None**

**Type of Application** : **Determination of the pitch fee –  
paragraph 18 of Schedule 1 Mobile  
Homes Act 1983, as amended (“the  
Act”)**

**Tribunal Members** : **Judge F J Silverman MA LLM  
Mr I R Perry FRICS**

**Date and venue of  
Hearing** : **Paper remote  
12 September 2022**

**Date of Decision** : **12 September 2022**

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**DECISION**

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**This has been a remote consideration on the papers which has been consented to by the parties. The form of remote hearing was P:REMOTE. A face to face hearing was not held because it was not**

**practicable and all issues could be determined in a remote hearing. The documents to which the Tribunal was referred are contained in an electronic bundle the contents of which are referred to below. The orders made in these proceedings are described below.**

### **Decision of the Tribunal**

1. The Tribunal determines that the new pitch fee from 01 May 2022 for the pitch known as 13 Little Trelower Park Trelowth St Austell Cornwall PL26 7DU (the pitch) is £184.42 per month.
2. The Respondents are jointly and severally ordered to repay to the Applicant the sum of £20 to reimburse the application fee paid to the Tribunal.

### **Reasons**

- 1 The Applicant is the Site Owner, and the Respondents are the Park Home Owners in occupation of the pitch . They have not been able to agree the new pitch fee effective from 01 May 2022. Consequently, the site owner must apply to the Tribunal in order to obtain an increase. There does not appear to be any dispute regarding the effective date of the increase which is contained in the mobile home agreement dated 01 July 2011 the benefit of which was assigned to the Respondents on 23 October 2020.
- 2 The hearing took place as a paper consideration to which the parties had previously consented. In accordance with current Practice Directions relating to Covid 19 the Tribunal did not make a physical inspection of the property. The issues in the case were capable of resolution without a physical inspection of the property.
- 3 On 30 March 2022 the Applicant served a notice proposing a new monthly pitch fee of £184.41 based on the current pitch fee of £170.43 increased by the change in the Retail Price Index over the twelve months from February 2021. The Tribunal finds that the formalities of the notice and its service and the use of the correct RPI have been satisfied. No objection was raised to them by the Respondents.
- 4 The Applicant applied to the Tribunal on 30 May 2022 for determinations that a change in the pitch fee is reasonable and the amount of a new pitch fee.

- 5 Directions were issued on 22 July 2022 stating that the Tribunal would deal with the application on the papers only unless any party requested a hearing. No such request was received.

#### The Law

6. The site owner can only increase the pitch fee annually with the agreement of the occupier or, in the absence of an agreement, by a determination of a new pitch fee by the Tribunal.
7. The site owner must give written notice accompanied by a prescribed Pitch Fee Review Form. The Tribunal notes that the correct form and time limits have been complied with in this case.

#### 8. Paragraph 18(1) states that

When determining the amount of the new pitch fee particular regard shall be had to

(a) any sums expended by the owner since the last review date on improvements

(i) which are for the benefit of the occupiers of mobile homes on the protected site

(ii) which were the subject of consultation in accordance with paragraph 22(e) and (f) below; and

(iii) to which a majority of the occupiers have not disagreed in writing or which, in the case of such disagreement, the court, on the application of the owner, has ordered should be taken into account when determining the amount of the new pitch fee;

Further by S20 (1) There is a presumption that the pitch fee shall increase or decrease by a percentage which is no more than any percentage increase or decrease in the retail prices index since the last review date, unless this would be unreasonable having regard to paragraph 18(1) above.

#### Site Inspection

- 9 Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

#### The Evidence

- 10 The Applicant provided a bundle of documents containing a copy of the application, the Directions, the original agreement, the pitch fee review letter, Pitch Fee Review Form and an extract from the Office for National Statistics Retail Price Index (RPI) for the relevant period.
- 11 The original agreement complies with the terms imposed by the Act as amended.

- 12 The Respondents did provide comments including copies of emails suggesting that they objected to the increase of the pitch fee because they felt that the services provided by the Applicant were inadequate or of poor quality and that their attempts to get repairs carried out had been difficult and not wholly successful.
- 13 The Applicant argued that the Respondents had not submitted their evidence by way of formal witness statement as required by the Tribunal's Directions and requested that the Tribunal ignore the Respondent's submissions.
- 14 Although the Tribunal does not condone the failure by any party to comply with its Directions, it recognises that the Respondents are without legal representation and that in the interests of justice they must be allowed to put their objections before the Tribunal. The Tribunal did therefore read and in making their decision took into consideration the documents submitted by the Respondents which indicate that the both the level of services supplied to the tenants and the Applicant's response to requests for repairs are far from ideal.
- 15 However, the Tribunal does not consider, on balance, that the Respondents have demonstrated that either that there has been a diminution in the services supplied by the Applicant or that there has been a diminution in the quality of those services during the past twelve months.
- 16 There do not therefore appear to be any grounds on which the Tribunal is able to reduce the revised pitch fee which has been correctly calculated in accordance with the relevant Retail Prices Index.
- 17 If the Respondent are dissatisfied with the level of service they are receiving they are entitled to raise this with the Tribunal through an application on Form PH3.
- 18 The Tribunal therefore determines that the pitch fee should increase from the review date of 01 May 2022 to £184.41 per month in accordance with the Notice dated 30 March 2022.
- 19 If the Respondents have continued to pay the original pitch fee since the review date, they must pay the difference to the Applicant.
- 20 The Tribunal also orders the Respondents jointly and severally to repay to the Applicant
- 21 The sum of £20 representing the Applicant's application fee to the Tribunal.

**Name:** Judge F J Silverman as Chairman      **Date:** 12 September 2022

Note:

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk).
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.