



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

Case Reference : CHI/29UK/PHI/2022/0129

Property : 6 Wickens Meadow Park, Rye Lane,
Dunton Green, Sevenoaks, Kent, TN14 5JB

Applicant : Wyldecrest Parks (Management) Ltd

Representative : David Sunderland

Respondent : Julie Truzzi-Franconi

Representative :

Type of Application : Review of Pitch Fee: Mobile Homes Act
1983 (as amended)

Tribunal Member : Judge D Whitney

Date of Decision : 17th April 2023

Decision

1. On 29 September 2022 the Applicant site owner sought a determination of the pitch fee of £118.99 per month payable by the Respondent as from 1 September 2022 and proposed as a late review. A Pitch Fee Review Notice dated 26 July 2022 was served on the occupiers proposing to increase the pitch fee by an amount which the site owner says represents only an adjustment in line with the Retail Prices Index.
2. Various sets of directions were given. By application dated 9th March 2023 the Applicant seeks a withdrawal of the application and an order that the Respondent should pay the Tribunal fee incurred by the Applicant pursuant to Rule 13(2).
3. The Application is made following on from a decision of the Upper Tribunal [2023] UKUT 42 (LC) between the same parties which accepted the validity of an earlier pitch fee review.
4. The Respondents made representations dated 17th March 2023 and Mr Sunderland responded on the same date.
5. In short the Applicant states it had no choice but to make this application pending the outcome of its appeal. It was successful on the appeal and so this case is not required. It suggests this application was required due to the stance adopted by the Respondent.
6. The Respondent refers at length to the appeal to the Upper Tribunal and suggests the Applicant did not need to issue these proceedings.
7. I am satisfied that the Applicant was entitled to make this current application for a pitch fee review if it considered it necessary to protect its position pending the outcome of the Upper Tribunal proceedings. Those are however separate proceedings and I must look at these proceedings.
8. Rule 13 (2) of the Tribunal Rules does provide me with a discretion as to whether or not I should order that one party should refund the fee paid to the other. In this instance the fee paid was £20. The Tribunal has made no determination on this application and the same is not required due to the decision of the Upper Tribunal. That decision did find in favour of the Applicant.
9. However on balance I am not satisfied that I should made any order. I exercise my discretion to refuse to make an order for costs in respect of this application taking account of the facts as a whole.
10. I do agree to the withdrawal of the application.

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
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.