



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

**Case Reference** : **BIR/44 UE/PHI/2023/00192**

**Property** : **21 Spinney Close, Redlands Park, Banbury Road,  
Lighthorne, Warwick CV35 0AQ**

**Applicant** : **Avon Estates Limited**

**Respondent** : **William Robertson**

**Type of Application** : **Application for Pitch Fee Review (1<sup>st</sup> June 2023)**

**Tribunal Member** : **Judge T N Jackson**

**Date** : **20 August 2024**

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**DECISION**

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## **Decision**

**The Tribunal determines that the pitch fee for the Property should increase to £159.66 per month from the review date of 1 June 2023.**

### **Introduction**

1. By Pitch Fee Review Notice dated 27 April 2023, the Applicant proposed to increase the current pitch fee of £159.66 per month to £181.22 per month with effect from the annual review date of 1 June 2023. The increase represented an RPI increase of 13.5%. The last review date was 1 June 2022.
2. The proposed increase related to the increase in the RPI Index only. The application confirmed that there had been:
  - a. no money spent on improvements since the last review date;
  - b. no deterioration in the condition and/or any decrease in the amenity of the site; and
  - c. no reduction in the services and/or deterioration in services supplied by the Applicant to the site, pitch or park home.
3. On 31 July 2023, the Applicant applied to the Tribunal for a determination of new level of the pitch fee in relation to the Property.

### **Procedural background**

4. The Tribunal issued Directions dated 22 September 2023 to which both parties responded. Further Directions 2 dated 6 June 2024 were issued to clarify whether or not the Respondent had expressly agreed to the pitch fee as reviewed in 2022 in order to establish the current pitch fee to use in the Pitch Fee Review Notice for the proposed review from June 2022.
5. Both parties responded and the Respondent stated that he agreed to pay £181.22 from 1 June 2024. On that basis, the Applicant notified the Tribunal of their intention to withdraw the application. However, the Respondent subsequently clarified that he had made a typing error and that he agreed to pay the amount set out in the Pitch Fee Review Notice for 1 June 2024 namely £164.77. On the basis of the updated information, the Applicant advised that it wished to proceed with the application rather than withdraw.
6. Neither party requested an inspection or a hearing and the Tribunal therefore considered the matter on the basis of the written submissions.

### **The Law**

7. The relevant legislation is contained within Schedule 1 Part 1 Chapter 2 of the Mobile Homes Act 1983 (as amended). Paragraph 20 (1) provides that unless it would be unreasonable having regard to paragraph 18 (1), there is a presumption that the pitch fee will increase or decrease by a percentage which is no more than the percentage change in the RPI since the last review date.

8. Paragraph 18 (1) sets out factors to which “particular regard” must be had when determining the amount of the new pitch fee but these are not relevant to this application as the increase is based on RPI only.

### **The submissions**

#### Applicant

9. The Applicant says that following a pitch fee review on 1 June 2022, the pitch fee was increased from £146.48 to £159.66 per month. A copy of the Pitch Fee Review Notice for 1 June 2022 was included within the submission. The Notice says that the last review date was 1 June 2021.
10. After receiving a payment of £196.09, by email of 7 July 2022, the Applicant informed the Respondent that the 2022 pitch fee review had been carried out and the pitch fee increased from £146.48 to £159.66 from 1 June 2022. The payment made would be applied firstly to the payment of £159.66 pitch fee from 1 June 2022 and the remainder to pitch fee arrears and the Respondent was asked to advise the Applicant “*if this is any different*”. No response was received.
11. By email of 4 August 2022, the Applicant informed the Respondent that he had again paid £196.09 and that they would therefore apply the money received to the payment of the increased pitch fee of £159.66 from 1 June 2022 with the remainder to go to arrears. They said “*If we do not hear from you we will take this as acceptance of the above and the new pitch fee from 1 June 2022*”. No reply was received.
12. The Applicant submits that as there was no response, and the Respondent was making payments over and above the proposed pitch fee of £159.66 per month, they considered that the new pitch fee from 1 June 2022 was accepted and therefore did not apply to the Tribunal for a determination.
13. The proposed pitch fee review of £181.22 per month from 1 June 2023, the subject of this application, is based on a current pitch fee from 1 June 2022 of £159.66 per month. The proposed increase related solely to the RPI increase of 13.5%.
14. The Applicant submitted the Statement of Account in relation to the Respondent which demonstrates that pitch fee amounts received from the Respondent between July 2022 and May 2023 were sporadic and continued to be so after May 2023.

#### Respondent

15. The Respondent disputes that the current pitch fee is £159.66 a month. He says he paid £140.67 from June 2022 to May 2023. He subsequently had a meeting with Mr N Allen of the Applicant company on 31 August 2023 to discuss the pitch fee and at which he agreed to pay the RPI adjustment of 13.5% and they immediately increased his payment to £159.66 per month which he has paid with effect from 1 June 2023. He says that the proposed increase to £181.22 per month would mean an effective rise of 29% in a single year.
16. He has provided bank statements showing payments from March 2023 to November 2023 which correspond with the figures shown in the Statement of Account provided by the Applicant. The payment in September 2023 reflects the £159.66 for

September 2023 and arrears in respect of the £159.66 per month from June 2023. The amount paid over £159.66 per month reflects the pitch fee plus the water and service charges.

### **Decision**

17. The Tribunal considered all the written evidence submitted.
18. The Tribunal first considered what was the pitch fee to be paid prior to 1 June 2023 as this would form the current pitch fee to be included in the Pitch Fee Review Notice for 1 June 2023. The Respondent refers to paying £140.67 per month. The Applicant says that it was £146.48 per month prior to 1 June 2022 when, in accordance with the Pitch Fee Review Notice for 1 June 2022, it increased to £159.66 per month.
19. The Applicant has not provided any evidence regarding the pitch fee review in 1 June 2021 to demonstrate that the pitch fee was either expressly agreed by the Applicant or determined by a Tribunal at £146.48 per month. The Statement of Accounts for the Respondent provided by the Respondent unfortunately only starts from 1 July 2022 and does not assist in showing what was paid prior to that date. However, they show that between 1 July 2022 and 2 November 2023 there are pitch fee payments made each month the amounts of which vary with the lowest pitch fee payment being £85.25 and the highest £258.19. There are four payments of £140.67 namely in November 2022, February 2023, May 2023 and August 2023 respectively. The first payment of £159.66 is in November 2023. There are no payments of £146.48 during this period. This adds weight to the Respondent's evidence that the pitch fee was £140.67 prior to the Pitch Fee Review Notice relating to the 1 June 2022 review.
20. The Tribunal then considered whether the pitch fee had been increased by agreement or Tribunal determination to £159.66 following the Pitch Fee Review Notice due to take effect from 1 June 2022.
21. The Tribunal does not accept that the Respondent agreed to the increased pitch fee from 1 June 2022 as claimed by the Applicant.
22. Paragraphs 3 and 4 of Schedule 1 of Mobile Homes Act 1983 set out the effects of the occupier either agreeing or not agreeing the new pitch fee respectively. The prescribed form which accompanied the Pitch Fee Review Notice under the paragraph headed 'General' makes it clear that a proposed pitch fee cannot be imposed on an occupier and it must be agreed or determined by a Tribunal. The paragraph headed 'The effect of the pitch fee review notice and making an application to the Tribunal', says that if the occupier does not accept the proposed pitch fee, they can let the site owner know, but the occupier does not have to do so. Provided the current pitch fee continues to be paid, that is the maximum amount payable unless the Tribunal decides a different pitch fee figure. An application must be made to the Tribunal no later than three months after the review date.
23. Upon being asked the direct question in Directions 2, the Applicant was not able to provide any evidence of express, rather than assumed, agreement by the Respondent of the increase to £159.66 per month from 1 June 2022. In matters as significant as an increase in pitch fee, agreement cannot be assumed by lack of action on the part of the occupier as the Applicant suggests occurred following the Respondent's failure to respond to the emails of 7 July 2022 and 4 August 2022. Neither can it be assumed

from payments which are larger than the proposed pitch fee in the absence of any explanation for that overpayment. The Notes are clear that the occupier does not need to let the site owner know if they agree the increase in pitch fee. If an occupier has not expressly agreed, then it is the site owner's responsibility to clarify with the occupier whether there is agreement, failing which the site owner has the opportunity to apply to the Tribunal within a fixed time period. The Applicant advises that there was no Tribunal determination regarding the proposed pitch fee review from 1 June 2022. Therefore, in the absence of express agreement or Tribunal determination, the Tribunal concludes that the pitch fee was not in fact increased from 1 June 2022.

24. The Tribunal therefore finds that the current pitch fee upon which the 1 June 2023 review falls to be calculated is £140.67 per month. The Tribunal agrees with the Applicant that during the 12- month period applicable to this review, the RPI had risen by 13.5%. An increase of 13.5% on £140.67 per month equates to £159.66 per month.
25. The Tribunal therefore determines that the pitch fee should increase from the review date of 1 June 2023 to £159.66 per month. We note that the Respondent appears to have agreed to this in his meeting with the Applicant in August 2023.
26. If the Respondent has continued to pay the original pitch fee since that date, he must pay the difference to the Applicant.
27. The Tribunal confirms that the Respondent is not in arrears in relation to potential arrears from the increase on 1 June 2023 if he has continued to pay the pitch fee due before the service of the Pitch Fee Review Notice. The difference between the current pitch fee and the reviewed pitch fee becomes payable 28 days after this decision is issued (paragraph 17 (4)(c) Part 2 of Schedule 1 of the 1983 Act).

#### *Further thoughts*

28. The Tribunal has seen the first page of a Pitch Fee Review Notice for 1 June 2024 which states that the current pitch fee is £159.66 per month and it is proposed to be increased to £164.77 per month from 1 June 2024 as a result of the CPI increase of 3.2%. That matter is not before the Tribunal as an application has not been made by the Applicant. However, we note that, in correspondence dealing with this application, the Respondent says that he agrees to pay the £164.77 per month and has been paying it since 1 June 2024. The Applicant may wish to confirm this directly with the Respondent to prevent any further dispute and the need for a further application to the Tribunal.
29. It may prevent future Tribunal applications on pitch fee reviews if there is more communication and clarity regarding the payments made by the Respondent. If he separates out the pitch fee from any additional service charges or payment of arrears when making payments each month, then both parties will be clear as to whether there is a dispute as to the amount of the pitch fee. This will then allow the Applicant to apply to the Tribunal in a timely manner if a proposed pitch fee review cannot be expressly agreed.

#### **Appeal**

30. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties and must state the grounds on which they intend to rely in the appeal.

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Judge T N Jackson  
20 August 2024