



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

Case Reference : CHI/45UC/PHC/2024/0002/HP

Property : 14 Beechfield Park, Hook Lane,
Aldingbourne, PO20 3XX

Applicant : The Beaches Management Ltd

Representative : David Sunderland

Respondent : Mr Colin Roy Bourgaize

Representative :

Type of Application : Application for a determination of any
question(s) arising under the Mobile
Homes act 1983

Tribunal Members : Regional Judge Whitney
Regional Surveyor Coupe

Date of Hearing : 1 October 2024

Date of Decision : 4 October 2024

Decision

Background

1. The Applicant seeks a determination of questions from the Tribunal as outlined in part 5 of the application form which are in relation to the amount of commission paid to the Applicant following the sale of the aforementioned mobile home. The Tribunal notes that the Applicant requires the Respondent to provide documentary evidence of the price paid and has submitted copy correspondence dated 4 and 17 January 2024 to support its request.
2. The Tribunal issued directions on 28th August 2024 listing the matter for a case management hearing. The directions included provision for each party to file and serve position statements by 17th September 2024.
3. The directions were posted to the Respondent as no email address was held by the Tribunal.
4. The Applicant's representative Mr Sunderland filed a position statement and letter of authority appointing him. He confirmed copies were posted to the Respondent.
5. On 23rd September 2024 Mr Sunderland filed an application to withdraw the application together with a case management application seeking costs pursuant to Rule 13(1) and (2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules"). The costs sought were the application fee of £110 and Mr Sunderland's costs of £250. This application was copied by email to the Respondent.
6. The Tribunal sent by post details how to join the hearing. Mr Sunderland on the morning of the hearing forwarded the link to the Respondent and copied his email to the Tribunal.
7. The Respondent did not attend.
8. Mr Sunderland explained on 19th September 2024 he received from the Respondent a screenshot of a mobile telephone showing payments made to the previous owner. He also received photographs showing the home was in a poor state of repair and that this would in his submission explain the price paid. He accepted the notice given properly recorded the price paid.
9. Mr Sunderland explained whilst the previous owner had assigned his interest owing monies he was pursuing this separately and no longer wished to pursue the question of a forwarding address for the previous owner via the Respondent.
10. As to costs Mr Sunderland explained that the notice of the sale was given after the sale completed on 16th November 2023. No proof of price paid was given despite being required under the form used. His

office had written to the Respondent on two occasions seeking such information being 4th and 17th January 2024. Those letters indicated that the Applicant would take further action if the information was not provided.

11. Mr Sunderland reminded the Tribunal the Respondent had not complied with directions and even after the date set for serving positions statements, he had belatedly provided the information the Applicant was entitled to receive with the initial notice. This correspondence was not copied to the Tribunal.
12. Mr Sunderland submitted that the conduct of the Respondent was unreasonable and that they had unreasonably conducted the proceedings in leaving matters so late. He suggested the test in Rule 13 and in Willow Court Management (1985) Ltd v Alexander [2016] 0290 UKUT (LC) was met.
13. Mr Sunderland confirmed his client had paid the Tribunal fee of £110. They also were liable for his time which was charged at £500 per day. He limited his time costs to half a day for preparing the application, preparing the position statement and attending today. He suggested such sums were reasonable.

Decision

14. Firstly we considered whether we should proceed to determine the matter. We are satisfied that the Respondent was aware of the hearing. Notification was posted to him by the Tribunal and Mr Sunderland had himself made him aware of the link using the email address with which the Respondent had corresponded with Mr Sunderland. We are satisfied that the Respondent choose not to attend.
15. That is only half of the matter. We must be satisfied that it is in the interests of justice to proceed. In so doing we have regard to all of the submissions made and information before us. We also have regard to Rule 3 of the Rules and in particular the need to act proportionately. We are satisfied that in the particular circumstances of this case it was right and proper to proceed and make a final determination.
16. We agree the application should be withdrawn.
17. We find the Respondent should pay to the Applicant within 28 days of this decision a sum totalling £360 being the Tribunal fee of £110 and Mr Sunderland's costs of £250.
18. Our reasons are that the Respondent's conduct has been unreasonable. The Schedule 5 form makes clear it should have attached evidence of the price paid. This was not provided. The Applicants on two occasions

prior to making application wrote to the Respondent and made clear they would seek costs if information was not provided. He did nothing.

19. The application was sent to the Tribunal on 8th February 2024 and copied by post to the Respondent. Belatedly on 19th September 2024 the Respondent engaged with the Applicant and supplied evidence which they promptly accepted. We record the Respondent has at no point engaged with the Tribunal.
20. We are satisfied that we should take account of the pre-application conduct and when considered in light of the abject failure to engage with the Tribunal such conduct is unreasonable.
21. We have then considered whether or not we should make an order. We are satisfied we should. The application has been made solely due to the conduct of the Respondent. We then consider the costs claimed. Mr Sunderland effectively seeks the whole of his costs. In the particular circumstances of this case we agree that in principle that is what we should consider. We turn then to the amount and given Mr Sunderland's expertise in park home matters we are satisfied that the costs claimed for the work undertaken are reasonable. As for the Tribunal fee we agree the Applicant had no choice but to incur the same and we exercise our discretion to award the same.

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.