



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

**Case Reference** : **BIR/17UJ/PHI/2024/0056**

**Properties** : **5 Willow Square, Sunningdale Park, Queen  
Victoria Road, New Tupton, Chesterfield S426GA**

**Applicant** : **Mr M White & Mrs O White**

**Representative** : **David Sunderland**

**Respondent** : **Mrs Barnett**

**Application** : **Application under paragraph 16 of Chapter 2 of  
Part 1 of Schedule 1 to the Mobile Homes Act  
1983 for the determination of the new level of  
pitch fee for the subject property**

**Tribunal** : **Judge M K Gandham  
(Deputy Regional Judge)**

**Date of Decision** : **25 February 2025**

---

**DECISION**

---

## **BACKGROUND**

1. On 21 June 2024, Mr M White and Mrs O White ('the Applicants') made an application under paragraph 16 of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 ('the Act') for determination of a new level of pitch fee, effective from 1 April 2024, for the premises known as 5 Willow Square, Sunningdale Park ('the Property').
2. The Applicants are the site owners of Sunningdale Park, Queen Victoria Road, New Tupton, Chesterfield, S42 6GA ('the Site') and Mrs Barnett ('the Respondent') is the occupier of the Property.
3. Directions were issued by the Tribunal on 16 August 2024. In the Direction Order, the Tribunal drew the attention of the Respondent to the Pitch Fee Review Form issued by the Applicants and, in particular, to the statutory presumption (in paragraph 20 of Chapter 2 of Part 1 of Schedule 1 to the Act) that the pitch fee would increase or decrease by no more than the annual change in the Consumer Prices Index (CPI), unless that would be unreasonable having regard to the matters set out in paragraph 18(1) of Chapter 2 of Part 1 of Schedule 1 to the Act.
4. The Respondent was directed that, if she did not agree to the proposed new pitch fee, to send to the Applicants, and to the Tribunal, a Statement in Response, setting out in full her reasons for opposing the same. The Tribunal indicated that, if the Respondent failed to send a Statement in Response, she might be deemed to have agreed to the proposed new pitch fee.
5. No Statement in Response was received from the Respondent by the specified deadline, although the Tribunal received a statement in Reply from the Applicants, on 10 September 2024, in which the Applicants requested orders under Rules 13(1) and (2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('the Rules') for reimbursement of the application fee of £22.00 and costs amounting to £150.00.
6. On 15 October 2024, the Tribunal wrote to the Respondent asking for a response to the Applicants' submissions in respect of fees and costs.
7. The Tribunal received a telephone call from the Respondent, on 16 October 2024, stating that she had paid a cheque to the warden of the Site on 21 August 2024 and believed that the case should not be proceeding. On 17 October 2024, the Applicants confirmed that they would withdraw their substantive application, but not their applications under Rule 13, if the Respondent confirmed that she now agreed to the new pitch fee.
8. Despite allowing the Respondent further time to respond to the costs application and to provide confirmation as to whether the pitch fee was agreed, the Tribunal received no further response from her.
9. On 27 November 2024, the Tribunal issued further directions, warning the Respondent that if she did not comply with directions, she would be automatically barred from taking further part in these proceedings under Rules 9(1) and (7)(a) of the Rules.

10. As the Respondent has, again, failed to provide a response, in accordance with paragraph 5 of the Directions Order dated 27 November 2024, she is now automatically barred from taking further part in these proceedings and the Tribunal need not consider any further response or other submission made by her.
11. Consequently, the Tribunal summarily determines the substantive decision with regard to the pitch fee against her (Rule 9(8) of the Rules).

### **Tribunal's Decision on Pitch fee**

12. The Tribunal finds that the statutory presumption set out in paragraph 20 of the Act applies and that the pitch fee is to increase by 4% as at the date detailed in the Notice, being 1 April 2024.
13. Accordingly, the Tribunal determines that the pitch fee for the Property **shall be increased** from £221.61 per month to £230.47 per month, from 1 April 2024.

### **Tribunal's Decision on Rule 13 Applications**

#### *Rule 13(2) - Reimbursement of Fees*

14. The Tribunal can, on its own initiative or on the request of a party, under Rule 13(2) "*make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party...*". In this matter, the Applicants had paid an application fee of £22.00.
15. The pitch fee can only be changed under paragraph 16 of Chapter 2 of Part 1 of Schedule 1 to the Act by agreement or by application to the tribunal. As stated above, that application was made by the Applicants on 21 June 2024 and directions were issued by the Tribunal on 16 August 2024.
16. At no point has the Tribunal received any written confirmation from the Respondent that the pitch fee increase was agreed by her, despite being given several opportunities to confirm the same. The Tribunal has also received no information from the Respondent as to why she may have opposed the new pitch fee and failed to pay the same until after an application had been made to the tribunal and the first set of directions issued.
17. As such, the Tribunal finds that the Applicants had no alternative but to make an application to the Tribunal and finds it appropriate to make an order under Rule 13(2).
18. According, the Tribunal **orders** the Respondent to reimburse to the Applicants the application fee of £22.00.

#### *Rule 13(1) - Costs*

19. The limited powers for a Tribunal to award costs are contained within Rule 13 of the Rules.

20. Unlike CPR 44.2(2)(a), once a power to make an order for costs is engaged, there is no general rule that an unsuccessful party will be ordered to pay the costs of the successful party. The only general rule is derived from section 29 of the Tribunals, Courts and Enforcement Act 2007, which provides that “*the relevant Tribunal shall have full power to determine by whom and to what extent the costs are to be paid*”, subject to the tribunal’s procedural rules.
21. The Upper Tribunal in *Willow Court Management Co (1985) Ltd v Alexander* [2016] UKUT 0290 (LC), provided guidance on the correct approach to costs claims under Rule 13 and suggested that a three-stage process should be adopted when dealing with such applications:
- firstly, the tribunal should consider whether the person against whom an order is sought has behaved unreasonably;
  - secondly, the tribunal must consider whether, in the light of the unreasonable conduct it has found, it ought to make an order for costs or not; and
  - finally, it should decide what the terms of that order should be.
22. The Upper Tribunal discussed the assessment of unreasonable behaviour and considered that in deciding whether behaviour was reasonable required a “*value judgement*”. It saw no reason to depart from guidance given in *Ridehalgh v Horsefield* [1994] Ch 205, where the expression of ‘unreasonable’ conduct was defined as:
- “... conduct which is vexatious, designed to harass the other side rather than advance the resolution of the case, and it makes no difference that the conduct is the product of excessive zeal and not improper motive. But conduct cannot be described as unreasonable simply because it leads in the event to an unsuccessful result or because other more cautious legal representatives would have acted differently.”*
- The Upper Tribunal also expressed its thought that, alone, it would be improbable that the failure of a party to adequately prepare for a hearing, to adduce proper evidence for their case, to state a case clearly or to seek a wholly unrealistic or unachievable outcome, would justify the making of an order under Rule 13(1)(b).
23. In relation to lay people, the Upper Tribunal considered that they should not be considered unreasonable for being unfamiliar with the substantive law or tribunal procedure, for failing to appreciate the strengths and weaknesses of theirs or their opponent’s cases and for lacking presentation skills or performing poorly at the hearing, and went on to state that (para 32):
- “...The behaviour of an unrepresented party with no legal knowledge should be judged by the standards of a reasonable person who does not have legal advice. The crucial question is always whether, in all the circumstances of the case, the party has acted unreasonably in the conduct of the proceedings.”*
24. The Applicants, in the Statement in Reply, stated that the costs of £150.00 they were seeking was in relation to “*the costs incurred in making and responding to the Application in the sum of £150.*”

25. In this matter, the only response received from the Respondent was a telephone call to the Tribunal stating that she had paid the Site warden a cheque, presumably for the outstanding pitch fees.
26. The Tribunal accepts that the failure of a Respondent to comply with orders of the Tribunal may, in certain circumstances, be considered unreasonable. In this case, however, there was nothing unreasonable in the Respondent failing to comply with the first set of directions, as she was only required to provide a Statement of Response if she did not agree with the pitch fee. Although the Applicants provided a two-page Statement in Reply, they were only required to supply a Reply “*if*” the Respondent had raised an objection to the new pitch fee.
27. Following the first set of directions, the Respondent was only required to respond to the Tribunal’s further letters if she wanted to make submissions regarding costs or if she agreed the pitch fee. The last Directions Order, dated 27 November 2024, confirmed that she would be automatically barred if she made no response, and that the matter could be summarily determined against her. She has been barred and the pitch fee has, by this decision, been summarily determined against her.
28. As such, the Tribunal does not consider that, in the circumstances of this case, the Respondent has crossed the threshold for the making of an order for costs. In addition, even if the Tribunal found that the Respondent’s conduct in this case had been unreasonable, the Tribunal was unlikely to have made an order for costs of £150.00, as the Tribunal had not required the Applicants to make any substantive submissions.
29. According, the Tribunal makes **no order** for costs under Rule 13(1)(b).

### **Appeal Provisions**

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 (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).