



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

Case Reference : **MAN/32UC/PHI/2023/0335**

Property : **40 Greenacres Park, Spilsby Road, Horncastle**

Applicant : **WALTER BIBBY**

Respondents : **LORNA KENNETT**

Type of Application : **Determination of new pitch fee: Mobile Homes Act 1983 Schedule 1, chapter 2, paragraph 16**

Tribunal : **Tribunal Judge A M Davies
Tribunal Member P Mountain**

Date of Decision : **22 February 2024**

DECISION

1. The pitch fee payable by the Respondent from 1 May 2023 to the following review is £172.60.

REASONS

1. On or about 15 March 2023 the Applicant sent the Respondent a late Pitch Fee Review Form in respect of her pitch at 40 Greenacres Park, Spilsby. The Pitch Fee Review Form advised the Respondent that with effect from 1 May 2023 her pitch fee was to be increased by 14%. This was the increase in the Retail Prices Index (RPI) in the 12 months to November 2022, the month prior to the date on which a pitch fee review notice could have been sent in order to apply the review on the Respondent's annual review date, 1st February.

2. The Respondent objected to the new pitch fees on the ground that her pension has not risen by the same percentage as the cost of living.
3. The Applicant followed the correct procedure for a pitch fee review as set out at paragraph 17 of Chapter 2, Schedule 1 to the Mobile Homes Act 1983 (“the Implied Terms”), and correctly calculated the annual pitch fee increase in line with the RPI adjustment over the relevant period of 12 months.

THE LAW

4. Paragraphs 18 and 20 of the Implied Terms govern pitch fee reviews and the matters to be taken into account if a pitch fee increase is not to reflect simply any increase or decrease in the RPI since the last review. So far as relevant they read:

“18(1) 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;.....

(aa) any deterioration in the condition, and any decrease in the amenity of the site or any adjoining land since [26th May 2013] (insofar as regard has not previously been had to that deterioration or decrease for the purposes of this sub-paragraph);.....

20 (A1) Unless this would be unreasonable having regard to paragraph 18(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 [RPI]”.

5. How the Tribunal is to determine what might constitute an “unreasonable” change in the pitch fee was considered by the Upper Tribunal in *Vyse v Wyldecrest Parks (Management) Ltd* [2017] UKUT 24 (LC). Her Honour Judge Alice Robinson stated at paragraph 23 of her judgement “The overarching consideration is whether the [Tribunal] considers it reasonable for the pitch fee to be changed; it is that

condition....which must be satisfied before any increase may be made (other than one which is agreed). It follows that if there are weighty factors not referred to in paragraph 18(1) which nonetheless cause the [Tribunal] to consider it reasonable for the pitch fee to be changed, the presumption in paragraph 20(1)...may be displaced.” She continued at paragraph 50: “This [factor] must be a factor to which considerable weight attaches.... Of course, it is not possible to be prescriptive as to precisely how much weight must be attached to an “other factor” before it outweighs the presumption in favour of RPI.... What is required is that the decision maker recognises that the “other factor” must have sufficient weight to outweigh the presumption in the context of the statutory scheme as a whole.”

6. The Applicant seeks a determination as to the correct pitch fee to be paid by the Respondent with effect from 1 May 2023 to the following review.
7. The Tribunal has made this decision without an inspection or hearing, in the basis of papers supplied and the written representations of the parties.
8. The Respondent has not referred to any relevant factor which might constitute a reason for departing from the statutory rule that a pitch fee is (as at February 2023) to be adjusted by reference to changes in RPI.
9. The Applicant has applied for a costs order pursuant to Rule 13 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013, on the ground that the Respondent has acted unreasonably in objecting to the pitch fee. No such costs order is made on this occasion, as it is to be supposed that the Respondent, not having the benefit of legal advice, was unaware of the statutory provisions regarding pitch fee reviews.