



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

**Case Reference** : **MAN/30UF/PHC/2020/0004**

**Property** : **39 Lagonda Drive, Carr Bridge  
Residential Park, Preston New Road,  
Blackpool FY4 5RQ**

**Applicant** : **Mrs Heather Watson**

**Representative** : **N/A**

**Respondent** : **Green Tree Parks Ltd**

**Representative** : **LHT Solicitors**

**Type of Application** : **Mobile Homes Act 1983 – Section 4**

**Tribunal Members** : **Tribunal Judge L. F. McLean  
Tribunal Member J. Faulkner FRICS**

**Date of Hearing** : **15<sup>th</sup> June 2023**

**Date of Decision** : **6<sup>th</sup> July 2023**

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**DECISION**

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## **Decisions of the Tribunal**

### **(1) The Application dated 24<sup>th</sup> July 2020 and received on 14<sup>th</sup> September 2020 is refused.**

#### **The application**

1. The Applicant applied to the Tribunal for the following orders to be made in respect of 39 Lagonda Drive, Carr Bridge Residential Park, Preston New Road, Blackpool FY4 5RQ (“the Property”):-
  - a. The installation of a land drain in between the Property and the adjacent pitch at 41 Lagonda Drive;
  - b. Remediation of damage and/or payment of compensation in respect of uneven flagstones and edging tiles, and cracks to the concrete hardstanding base of the Property, allegedly caused by erosion of the soil surrounding the base;
  - c. “To refund the £100”, which the Tribunal has interpreted as seeking reimbursement of the £100 application fee.

#### **Background**

2. The Applicant is the current tenant of the Property, under an agreement which is regulated by the Mobile Homes Act 1983 and which commenced in around 2015 (“the Agreement”). The Tribunal has not been provided with a copy of any signed or dated version of the Agreement but has been supplied with a copy of the “Implied Terms” which are implied by virtue of Section 2(1) of (and Part I of Schedule 1 to) the Act. At the outset of this case, the Application was brought jointly by the Applicant and her husband Mr Kenneth Watson. Mr Watson sadly passed away in April 2022 and the Applicant has continued the Application in her sole name.
3. The Respondent company is the owner of Carr Bridge Residential Park, Preston New Road, Blackpool (“the Site”). The Respondent was represented during proceedings by LHT Solicitors.
4. The Application was received at the Tribunal on 14<sup>th</sup> September 2020. Directions were made on 9<sup>th</sup> December 2020.
5. The Applicants were directed to send a bundle of indexed, paginated documents within 21 days, to include a copy of the Application and accompanying documents, any photographic evidence, and any other relevant documents the Applicants wished to rely on.
6. The Respondent was directed to send a bundle of indexed, paginated documents in response within 21 days of receiving the Applicants’ bundle, to include a written statement in reply to the issues raised in the Applicants’ bundle, copies of all documents (including correspondence) upon which the Respondent sought to rely in evidence, and any other relevant documents upon which the Respondent wished to rely. The Applicants were then

permitted to submit any further comments that they may wish to make in reply to the Respondent, within 14 days of receiving the Respondent's bundle.

7. The parties were also notified that an inspection of the Property would be necessary, and that the matter would then be determined at a video hearing. The parties were directed to try to agree a single combined bundle of all documents for use at the video hearing and to apply to the Tribunal for directions if they were unable to reach an agreement on this.
8. The Applicants filed additional evidence in the form of photographs, sent by covering email on 4<sup>th</sup> January 2021. It was not initially clear that this was intended to be the Applicants' further submissions in accordance with the Tribunal's Directions. The Applicants also did not send a copy to the Respondent's solicitors as directed.
9. On 17<sup>th</sup> September 2021, the Applicants were directed within 14 days to send to the Respondent's solicitors a copy of all the documentation and written correspondence that they had submitted to the Tribunal.
10. On 6<sup>th</sup> October 2021, the Respondent's solicitors wrote that they had received the Applicants' papers on 29<sup>th</sup> September 2021 but identified a number of ways in which the documents provided had not complied with the Tribunal's Directions. Additionally, the Respondent's solicitors requested an extension of time until 10<sup>th</sup> November 2021, which was granted.
11. The case was then subjected to a lengthy stay of proceedings due to Mr Watson's admission to hospital with cancer, from which he did not recover. He passed away on 14<sup>th</sup> April 2022.
12. Case management resumed from August 2022 and a Video Case Management Conference took place on 7<sup>th</sup> November 2022. At that VCMC, Deputy Regional Judge Bennett directed that the documents previously submitted by the Applicants, consisting of a PDF file of 39 pages, would stand as the Applicant's statement of case and that the Respondent should reply accordingly pursuant to the Tribunal's original Directions.
13. The Respondent did not submit any statement of case or documents in response but on its solicitors' request, it was afforded an extension of time until 10<sup>th</sup> February 2023. This date passed without further compliance from the Respondent. The matter was therefore listed for inspection and final hearing.

### **Grounds of the application**

14. The Applicant's grounds of the application were, in essence:-
  - a. The Property and the adjacent pitch suffer from inadequate surface water drainage, which causes rainwater to run off onto and pool on the Property, leading to flooding.
  - b. The pooling water had caused the flagstones and set edged areas around the concrete base to become uneven, such that the Applicants had incurred significant expense in replacing these.

- c. The pooling water and/or changes in soil levels had also caused cracks in the concrete base of the Property.
- d. The Applicants asserted that the above matters fell within the Respondent's express or implied repairing obligations pursuant to Implied Term 22(c) of the Agreement, that the Respondent was in breach of the said obligations, and that they had suffered loss and damage as a result of the same.
- e. The Applicants sought compensation and/or remediation for loss and damage, and also a direction that the Respondent install a land drain to provide adequate surface water drainage.

### **Issues**

15. The issues which the Tribunal had to decide were:-
- a. Is the Respondent obliged to ensure that there is adequate surface water drainage for the Property?
  - b. Is the Respondent liable for loss and damage alleged to the flagstones and set edged areas around the concrete base of the Property?
  - c. Is the Respondent liable for loss and damage alleged to the concrete base of the Property?
  - d. In all the circumstances, what order or remedy should the Tribunal grant, if any?

### **Relevant Law**

16. The Application is governed by the Mobile Homes Act 1983 and the Housing Act 2004.
17. The relevant sections of the Mobile Homes Act 1983 read as follows:-

#### **2 Terms of agreements**

(1) In any agreement to which this Act applies there shall be implied the applicable terms set out in Part I of Schedule 1 to this Act; and this subsection shall have effect notwithstanding any express term of the agreement.

[...]

#### **4 Jurisdiction of a tribunal or the court**

- (1) In relation to a protected site, a tribunal has jurisdiction—
- (a) to determine any question arising under this Act or any agreement to which it applies; and
  - (b) to entertain any proceedings brought under this Act or any such agreement, subject to subsections (2) to (6).
- (2) Subsection (1) applies in relation to a question irrespective of anything contained in an arbitration agreement which has been entered into before that question arose.
- (3) In relation to a protected site, the court has jurisdiction—

- (a) to determine any question arising by virtue of paragraph 4, 5 or 5A(2)(b) of Chapter 2, or paragraph 4, 5 or 6(1)(b) of Chapter 4, of Part 1 of Schedule 1 (termination by owner) under this Act or any agreement to which it applies; and
- (b) to entertain any proceedings so arising brought under this Act or any such agreement, subject to subsections (4) to (6).

(4) Subsection (5) applies if the owner and occupier have entered into an arbitration agreement before the question mentioned in subsection (3)(a) arises and the agreement applies to that question.

(5) A tribunal has jurisdiction to determine the question and entertain any proceedings arising instead of the court.

(6) Subsection (5) applies irrespective of anything contained in the arbitration agreement mentioned in subsection (4).

18. The relevant sections of the Housing Act 2004 read as follows:-

### **231A Additional Powers of First-tier Tribunal and Upper Tribunal**

(1) The First-tier Tribunal and Upper Tribunal exercising any jurisdiction conferred by or under the Caravan Sites and Control of Development Act 1960, the Mobile Homes Act 1983, the Housing Act 1985 or this Act has, in addition to any specific powers exercisable by them in exercising that jurisdiction, the general power mentioned in subsection (2).

(2) The tribunal's general power is a power to give such directions as the tribunal considers necessary or desirable for securing the just, expeditious and economical disposal of the proceedings or any issue in or in connection with them.

(3) When exercising jurisdiction under this Act, the directions which may be given by the tribunal under its general power include (where appropriate)—

- (a) directions requiring a licence to be granted under Part 2 or 3 of this Act;
- (b) directions requiring any licence so granted to contain such terms as are specified in the directions;
- (c) directions requiring any order made under Part 4 of this Act to contain such terms as are so specified;
- (d) directions that any building or part of a building so specified is to be treated as if an HMO declaration had been served in respect of it on such date as is so specified (and such a direction is to be an excluded decision for the purposes of section 11(1) and 13(1) of the Tribunals, Courts and Enforcement Act 2007);
- (e) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

(3A) When exercising jurisdiction under the Caravan Sites and Control of Development Act 1960, the directions which may be given by a tribunal under its general power include (where appropriate) directions requiring the

payment of money by one party to the proceedings to another by way of compensation, damages or otherwise.

(4) When exercising jurisdiction under the Mobile Homes Act 1983, the directions which may be given by the tribunal under its general power include (where appropriate)—

- (a) directions requiring the payment of money by one party to the proceedings to another by way of compensation, damages or otherwise;
- (b) directions requiring the arrears of pitch fees or the recovery of overpayments of pitch fees to be paid in such manner and by such date as may be specified in the directions;
- (c) directions requiring cleaning, repairs, restoration, re-positioning or other works to be carried out in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions;
- (d) directions requiring the establishment, provision or maintenance of any service or amenity in connection with a mobile home, pitch or protected site in such manner as may be specified in the directions.

### **Inspection**

19. The members of the Tribunal inspected the Property on 15<sup>th</sup> June 2023. The Applicant attended the inspection. There was no attendance or representation for the Respondent.
20. The Property consists of a mobile home stationed upon a concrete base and surrounded by brick edging and paving flagstones. A brick wall skirt has been built around the mobile home. The Applicant has also stationed a small greenhouse at the rear of the Property.
21. On the date of the inspection, the weather was hot and sunny and it had not rained for several days. The Tribunal Members nonetheless noted that some of the flagstones on the northerly side of the Property were slightly damp. It was noted that the Property was at a lower ground level than pitch no. 41 which is to the north, but it is not at a higher level than pitch no. 37 which is to the south. The Applicant pointed out that for both nos. 41 and 39, the rainwater downpipes from the roofs discharge straight into the soil and do not lead to any kind of drainage system as such. The Applicant pointed out that the rainwater downpipe at pitch no. 41 appeared to be kinked and that the flagstones on that pitch appeared to have lifted due to rainwater.
22. The Tribunal Members noted that the flagstones on the Property were slightly uneven and appeared to be at their lowest level in the north-west corner of the Property.
23. The Tribunal Members noted the following additional issues:-
  - a. An approximate 1/2-inch drop from the concrete base of the Property to the surrounding flagstones;
  - b. The metal base of the greenhouse was rusted and the mat inside was saturated with water;
  - c. Slight crack (1mm) in the concrete base at its westerly edge;

- d. Steps up to the entrance door on the southerly elevation had separated slightly from the concrete base;
- e. Two small cracks (one 2-3mm, one 1mm) in the concrete base at its southerly edge;
- f. Slight crack (1mm) in the concrete base at its northerly edge.

## **Hearing**

- 24. The final hearing of this matter took place by way of video hearing on the afternoon of 15<sup>th</sup> June 2023 following the inspection. The Applicant appeared in person and was joined by Ms Mel Eastwood as an observer. There was no appearance or representation for the Respondent.
- 25. The Applicant gave oral evidence to supplement her written submissions.
- 26. The Applicant stated that the problems first started before July 2020. She said that there had been flooding and they needed to get someone in to re-lay the flagstones because they were sinking below the concrete base. The Applicants had visited the Respondent's manager in his office to tell him about the problems. When he came to look at the Property he said words to the effect of, "You'll get these cracks. There's free drainage. It goes into the earth through the downpipes. The sand is being washed away." The problem continued to get worse and the Applicants paid for the flagstones to be re-laid.
- 27. Around that time, there had also been a seismic event which was thought to have resulted from Cuadrilla's nearby fracking operations. The Applicants contacted Cuadrilla to see if this might have been the cause of the flagstones sinking. Cuadrilla sent a surveyor from London, by which time fracking operations had finished. The surveyor spent a few hours inspecting the Property but said that the cause of the problem was from rainwater out of the downpipe lifting up the flagstones. Cuadrilla arranged for a further inspection by Mr John Moore of "Park Home Maintenance" a few weeks later. Mr Moore agreed that the problem came from the pitch next door at no. 41, and a copy of his "General Report" of 24<sup>th</sup> January 2020 was included in the Applicant's bundle.
- 28. After this report was received, the Applicants went to the Respondent's office. Mr Bamber then said words to the effect of, "They'll say anything to get out of doing their job." He then threw the Applicants' papers back at them and they heard nothing further from him.
- 29. The Applicant stated that every time it rains it floods the drains, and she dreads the winters. She informed the Tribunal that she had delayed updating their broadband because she needs to sort out the flagstones, and that the flooding needed to be resolved first. The Applicant confirmed that to date, the Respondent had never laid any additional drainage despite having mooted the possibility of this at one stage.
- 30. The Applicant confirmed that the edging tiles consist of bricks laid into the ground and which surround the concrete base. Her view was that these formed part of the base of the Property although the basis of that assumption

was that edging bricks and flagstones had already been laid when she and her late husband moved in around 8 years ago.

31. The Applicant stated that when she and her late husband first moved in, the edging bricks weren't coming away and there were no problems whatsoever. The Applicant's view was that there had been a lot more rain in the past few years than before, the lack of adequate drainage was the problem, and it was causing the flagstones to lift and come apart. She said that pitch no. 41 is on a slightly higher level than the Property, meaning that the Property in effect deals with double the amount of water at once.
32. The Applicant's view was that Implied Term Clause 22(c) meant that it was the responsibility of the Respondent to maintain the drainage in relation to the Property. When it was pointed out to the Applicant that 22(c) makes no mention of drainage, she maintained that this was the Respondent's responsibility because it does not say that it is the Applicant's responsibility and because any pipework coming into the drainage is the responsibility of the park owner.
33. The Applicant confirmed that the drainage currently consists of an informal soakaway which just drains into the earth, and this was the way it had been since she had first lived in the Property. Her evidence was that when she first moved in, the drainage was adequate – there was always some pooling of water, but it did not cause the same level of damage as in recent years.
34. The Applicant conceded that she was in effect asking the Tribunal to direct the Respondent to put in system or augmentation which currently is not installed in or on the Property.
35. The Tribunal asked about the minor cracks in the concrete base. The Applicant said she had first noticed these cracks appearing in 2020 when the surveyor attended from Cuadrilla, and they were not present when she first moved in. The Applicant was not able to point to any other damage allegedly arising from the cracks in the base. Although there was mention that one of the axels under the mobile home had turned inwards, she also said that she had been informed by one of the Respondent's employees that it was not properly installed in the first place.
36. During the course of the hearing, it emerged that the Applicants had previously sent to the Tribunal receipts or invoices for other works carried out, which were not included in the Applicant's bundle. The Applicant said these had been sent to the Tribunal by post and/or email but seemed to have gone missing and she was unsure if she had retained copies. The Tribunal agreed to attempt to find out what had happened to these. Regrettably, the Tribunal's investigations after the hearing concluded did not result in any other missing documents being located.
37. After the hearing concluded, the Applicant sent additional evidence including a quotation dated 8<sup>th</sup> August 2020 in the sum of £575 for re-laying flagstones, and some receipts for printing and postage expenses. For the reasons set out below, the Tribunal does not consider this evidence to be relevant.



## **Determination**

Is the Respondent obliged to ensure that there is adequate surface water drainage for the Property?

38. Implied Term 22(c) provides that:-

*The owner shall—*

*[...]*

*(c) be responsible for repairing the base on which the mobile home is stationed and for maintaining any gas, electricity, water, sewerage or other services supplied by the owner to the pitch or to the mobile home;*

39. Implied Term 22(c) only relates to “*repairing the **base** on which the mobile home is stationed*” and does not extend to maintaining the condition of the soil surrounding the base. Maintenance of the soil itself, including natural drainage, is the responsibility of the tenant, i.e. the Applicant in this case.

40. The Respondent is responsible for “*maintaining any gas, electricity, water, sewerage or other services supplied by the owner to the pitch or to the mobile home*”. However, this only requires the Respondent to maintain any facilities or services which are already provided. It does not require the Respondent to install new facilities or services simply because they would be desirable or beneficial. The members of the Tribunal have great sympathy for the Applicant’s position, as the installation of a land drain and/or another form of rainwater drainage would undoubtedly be highly beneficial to the Property and would significantly improve the Applicant’s enjoyment of the same. However, as there was no drainage system already provided, the Respondent is not obliged to install one.

41. In any event, the Tribunal considered that it would not have been in a position to make a direction requiring the installation of a land drain, because the Applicant had provided no technical information or scheme of works as to the design of the land drain which was envisaged. The Tribunal must ensure that in exercising its powers to make directions under Section 4 of the Mobile Homes Act 1983 and/or Section 231A of the Housing Act 2004, the person to whom the direction is given is able to understand clearly what is required of them in order to comply in a satisfactory manner.

Is the Respondent liable for loss and damage alleged to the flagstones and set edged areas around the concrete base of the Property?

42. The flagstones and set edged areas around the concrete base do not themselves form part of the base on which the mobile home is stationed – they are decorative chattels which are the personal property of the Applicant notwithstanding that mortar cement is used to hold them in place. Accordingly, the Respondent has no obligation to keep them in repair.

43. For the reasons set out above, the Respondent is not in breach of the Implied Terms of the Agreement and so cannot be liable for any loss and damage alleged to the flagstones and/or set edged areas around the concrete base of the Property.
44. In any event, the Tribunal did not consider that the Applicant had proved, on the balance of probabilities, that any damage to the flagstones and/or set edged areas could be attributed to soil erosion due to inadequate surface rainwater drainage. The “General Report” of John Moore dated 24<sup>th</sup> January 2020 was extremely brief at only 8 lines long, and there were no details of his apparent expertise in the area which would satisfy the standards of a formal judicial process. The Tribunal Members are aware that the Tribunal is an expert tribunal and does not require independent expert evidence on all matters in order to resolve disputes which are brought before it, but the Tribunal’s expertise in this instance did not extend to being able to determine the cause of the alleged damage.

Is the Respondent liable for loss and damage alleged to the concrete base of the Property?

45. The Tribunal finds as a fact that the concrete base is not in a state of disrepair. The cracks which were observed are minor and there is no evidence that they have caused, or are likely to cause, wider instability or damage to the mobile home.
46. In any event, the Tribunal did not consider that the Applicant had proved, on the balance of probabilities, that any damage to the concrete base could be attributed to soil erosion due to inadequate surface rainwater drainage. The limitations of the “General Report” of John Moore dated 24<sup>th</sup> January 2020 are already identified above, but in addition it should be noted that it makes no mention of the concrete base itself.

In all the circumstances, what order or remedy should the Tribunal grant, if any?

47. The Respondent is not obliged to provide additional surface rainwater drainage beyond what was already provided when the Applicant became the tenant of the Property, even if this would be highly beneficial for the Applicant. Nor is the Respondent obliged to keep the flagstones and set edged areas around the concrete base in repair unless such disrepair results from a breach of the Respondent’s other obligations under the Agreement, which is not the case here. The Respondent is obliged to keep the concrete base of the Property in repair, but the Tribunal finds as fact that it is not in disrepair and so there is no breach of the Agreement by the Respondent.
48. Accordingly, whilst the Tribunal Members are mindful that this decision will come as a great disappointment to the Applicant, the Tribunal nonetheless has no choice but to refuse the Application.

**Name:**  
**Tribunal Judge L. F. McLean**  
**Tribunal Member J. Faulkner FRICS**

**Date: 6<sup>th</sup> July 2023**

### **Rights of appeal**

1. By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal is required to notify the parties about any right of appeal they may have.
2. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.
3. The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
4. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.
5. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.
6. If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).