



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : **CAM/42UE/PHC/2017/0015**

Site : **Wixfield Park,
The Street,
Great Bricett,
Ipswich,
IP7 7DW**

Park Home address : **43 Wixfield Park**

**Applicant
Represented by** : **Tingdene Parks Ltd.
Ryan & Frost, solicitors**

Respondent : **Mr. G. Lapwood**

Date of Application : **4th October 2017**

Type of application : **to determine questions arising
under the Mobile Homes Act 1983
("the 1983 Act") or the agreement to
which it applies**

The Tribunal : **Bruce Edgington (lawyer chair)
David Brown FRICS**

DECISION

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1. The Tribunal orders that the Respondent is in breach of his occupation agreement by not having paid his pitch fees and he must pay outstanding pitch fees of £3,534.18 as at 1st January 2018 forthwith and
2. The Respondent must forthwith pay the additional sum of £100 to the Applicant representing the fee paid to the Tribunal for this application.

Reasons

Introduction

3. The Applicant purchased the Wixfield Park site on the 25th November 2015 from Sidney Thomas Nunns and Dianne Rose Nunns but no copy occupation agreements were handed over on completion of the purchase. The Respondent paid his pitch fees for January and February 2016 direct to the Applicant but has paid nothing since. The Applicant seeks an order that the unpaid pitch fees are payable despite there being no copy occupation agreement available.
4. The Tribunal issued a directions order on the 17th October 2017 timetabling this case to a final determination and, in particular:

- (a) Ordering the Respondent to file a statement setting out his response to the application and
 - (b) Indicating that the Tribunal would be content to determine this case upon a consideration of the papers only without an oral hearing but would fix such a hearing if either party requested it
5. As there was no indication from the application form or the statement supporting it that anyone had actually visited the Respondent to ask why he was not paying, and as he had not filed any statement setting out his case, the Tribunal set up to determine the case considered the evidence in detail and wrote a letter to the Applicant's representatives raising various questions.
6. This letter was responded to on the 3rd January 2018 and copied to the Respondent. No comments have been received from him. There has been no request for an oral hearing.

The Law

7. Section 4 of the 1983 Act gives this Tribunal the power "*to determine any question arising under the Act or any agreement to which it applies*". Enforcement is a matter for the County Court.
8. The legal structure of park home sites is set out in the 1983 Act as amended. In essence it says that people who acquire park homes and put them on a pitch in a registered park home site have the protection of an occupation agreement. The 1983 Act sets out very detailed implied terms for each agreement which cannot be overturned by the site owner. On order determining the occupation agreement can only be made by the county court.

Discussion

9. The Tribunal has now been provided with evidence of the purchase of the site by the Applicant. It has also now been provided with evidence that of the 65 occupied park homes on the site everyone except Mr. Lapwood has paid their pitch fees to the Applicant since the purchase.
10. One question raised with the Applicant was why they did not insist on copy occupation agreements being handed over on completion of their purchase. The answer given by Jeremy Pearson, a director of the Applicant, which, as part of the Tingdene group of companies, owns many park home sites, is "*it is often the case that when the Company purchases a long established park, as it did in the case of Wixfield Park, the selling owner does not have copies of written statements which can be handed over to the Company. That is what happened in this case.*" A written statement is, in effect, an occupation agreement.

Conclusions

11. Having considered the evidence, the Tribunal is satisfied that the Respondent was an occupier before the purchase by the Applicant, he knew that he had to pay the pitch fee to the Applicant because he did so for 2 months and there is no explanation as to why he has not done so since then.

12. It is also satisfied that where no copy of the occupation agreement exists, the terms implied by the 1983 Act apply and this does, of course, include a requirement on the part of the occupier i.e. Mr. Lapwood in this case, to pay the pitch fee to the new owner.
13. Evidence has been provided that £3,539.99 is the amount of pitch fees payable as at 1st January 2018. However, the figures produced by the Applicant are confusing. The original statement of Mr. Pearson dated 20th November 2017 states that £3,266.86 was then outstanding. His latest statement dated 3rd January 2018 gives the same figure but the exhibit shows an outstanding amount of £3,539.99. That takes into account the 2 demands sent on 1st December and 1st January in the sums of £153.66 and £159.47 respectively. There is no evidence of any agreement or application to fix a pitch fee review figure for the 1st January.
14. Thus, the Tribunal has determined that the original figure of £3,266.86 will be accepted, particularly as it has not been disputed, and 2 sums of £153.66 will be added to that making a net figure due of £3,534.18
15. Further, the Tribunal notes that the other 64 park home owners on the site have paid their pitch fees since the purchase and, despite being given every opportunity to explain his position, the Respondent has chosen not to do so.
16. The Tribunal would have liked to have seen some evidence of a visit to the Respondent to establish whether there is any obvious reason for this attitude but, on balance, it agrees that it should not have been necessary to make this application and an order is made pursuant to rule 13(2) of the **Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013** requiring the Respondent to reimburse the Tribunal fee of £100 to the Applicant.

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Bruce Edgington
Regional Judge
11th January 2018

ANNEX - RIGHTS OF APPEAL

- i. 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.
- ii. 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.
- iii. 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.

- iv. 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.