



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

Case Reference : **MAN/00FD/PHC/2019/0004**

Property : **Parklands Park Homes, Scotter Road,
Scunthorpe, DN17 1TA**

Applicant : **Parkland Park Homes**

Representative : **Tozers**

Respondent : **Mervyn Hayward**

**Type of
Application** : **Determination under section 4,
Mobile Homes Act 1983**

Tribunal Members : **A M Davies, LLB
P Mountain, FRICS**

Date of Decision : **11 November 2019**

DECISION

DECISION

1. The Respondent is in breach of Rule 15 of the Park Rules governing the Property.
2. No further order or direction.

REASONS

BACKGROUND

1. The Respondent and his wife became residents at Parklands Park Homes, Scunthorpe (“the Property”) on 20 December 2004.
2. Following the death of his wife in August 2009 the Respondent became depressed and withdrawn. In December 2009 his son gave him a boxer dog, Robbo, which stayed at the Respondent’s park home 18 Third Avenue on the Property until its death in 2016.
3. Following the death of Robbo the Respondent again became depressed and withdrawn. In or about July 2018 he bought a bulldog puppy, Winston.
4. The park rules applying to park home owners at the Property include the following:

Rule 15. You must not keep any pet or animal at the park home or on the pitch.

Rule 16. A new homeowner may come onto the park with not more than one dog or domestic cat (other than a dog of any of the breeds subject to the Dangerous Dogs Act 1991) which they already own and may keep for as long as they wish but they shall not be permitted to replace the pet or acquire another pet.

Rule 17. You must keep any dog or cat under proper control and you must not permit it to frighten other users of the park, or to despoil the park.

Rule 18. You must keep any dog on a leash not exceeding 1m in length.

Rule 19. Nothing in rules 15 or 16 of these park rules prevents you from keeping an assistance dog if this is required to support your disability and Assistance Dogs UK or any successor body has issued you with an identification book or other appropriate evidence.

THE APPLICATION

5. The Applicant owners of the Property asked the Respondent to provide them with evidence from the Assistance Dogs UK that Winston was required by the Respondent to support a disability. He was unable to do so.

6. The Applicant then canvassed the other residents at the Property as to whether Rules 15 – 19 should be modified. 81 replies were received, but there was no consensus as to the conditions which should be imposed to ensure that the Property remained safe, quiet and clean. There was an insufficient majority to permit a change of the rules worded in such a way that would allow the Respondent to keep Winston.
7. On 30 May 2019 the Applicant therefore applied to this tribunal for
 - (a) a finding that the Respondent is in breach of the park rules, and
 - (b) a direction requiring the Respondent to remove the dog from the Property within a reasonable period such as 28 days.
8. At paragraph 25 of her statement dated 28 May 2019 in support of the application Ms Waters for the Applicant cites Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 as follows:

“4. The owner shall be entitled to terminate the agreement [in this case, the agreement under which the Respondent and Mrs Hayward took a pitch on the Property in 2004] forthwith, if on the application of the owner, the appropriate judicial body –
(a) is satisfied that the occupier has breached a term of the agreement and, after service of a notice to remedy the breach, has not complied with the notice within a reasonable time; and
(b) considers it reasonable for the agreement to be terminated.”

She states at paragraph 26 of her statement that her purpose in making the application is to require the Respondent to remedy his breach, in order to avoid the risk that his right to remain at the Property may be terminated by the County Court.

THE RESPONSE

9. In response to the application the Respondent has lodged his own statement, and statements of his son and grandson, some other residents of the Property, and Mrs Gillian Charles of Scunthorpe Obedience & Agility Training Club (“SOATC”). He has also filed copies of two letters written by his GP Dr H Gandhi, and a certificate of registration and a statement from the registrar of the Emotional Support Animals Companion Registry UK (“ESA”).
10. The Respondent’s evidence confirms, and the tribunal accepts
 - (a) that Winston is not of a breed banned by the Dangerous Dogs Act 1991
 - (b) that the Respondent suffers from a disability which has been and is substantially alleviated by the companionship of a dog;

- (c) that Winston was bought as a puppy and that his regular attendance at SOATC has rendered him sociable and safe;
- (d) that Winston is registered with ESA and that according to ESA rules such registration is only possible once that organisation has received a letter from a health professional “*stating that the animal has been prescribed to you for your mental health diagnosis and treatment*”.
- (e) that the Respondent’s mental and physical health is noticeably improved by his owning Winston.

FINDING

11. The tribunal finds that

- (a) the Respondent is in breach of the park rules as currently drawn.
- (b) the park rules potentially discriminate against park home owners who require a pet to alleviate a disability but do not qualify for registration with Assistance Dogs UK – which does not, for example, currently register pets. The problem could be rectified either by the deletion from park rule 19 of the words after “*is required to support your disability*” or perhaps by substituting the word “*similar*” for “*successor*”.
- (c) the Respondent would have a case for arguing in the County Court that it was not reasonable in the circumstances for his park home agreement with the Applicant to be terminated. It follows that it is not necessarily a condition of his continued residence at the Property that he disposes of Winston.

12. In the circumstances, the tribunal does not make any direction that the Respondent is to remedy his breach of the park rules.