



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

Case Reference : **CHI/45UC/PHC/2021/0004**

Property : **1 Penarth Gardens
Thornlea Court
Wick
Littlehampton
BN17 7QA**

Applicant : **Turners (Britannia Parks) Limited**

Representative : **Tozers LLP**

Respondent : **Mrs Effie J Tempest**

Representative : **None**

Type of Application : **Determination of a question arising
under Mobile Homes Act 1983 or
agreement**

Tribunal Member : **Mr I R Perry BSc FRICS**

Date of Decision : **14th May 2021**

DECISION

Summary of Decision

1. On 14th May 2021 the Tribunal decided that the Respondent is in breach of the Implied Terms of the pitch agreement for 1 Penarth Gardens and orders that within 28 days of this decision the Respondent shall take the necessary actions to return the pitch and the outside of the mobile home to a clean and tidy condition.

Background

2. On 26th January 2021 the Applicant site owner sought a determination under s.4 of the Mobile Homes Act 1983 that the Respondent occupier had failed to keep her pitch and garden in a tidy condition and if so, an order requiring the Respondent to clear any rubbish from the pitch and tidy the pitch and garden area to an acceptable standard within 28 days of the determination.
3. Within its application the site owner indicated that it would be content with a paper determination if the Tribunal thought it appropriate to do so.
4. The Coronavirus pandemic and considerations of health have caused a suspension of inspections and Tribunal hearings in person until further notice.
5. The Tribunal issued directions on 24th February 2021 informing the parties that the Tribunal intended to determine the case based on written representations. The parties were invited to make submissions which could include photographs.
6. On the 2nd March 2021 the Tribunal issued amended directions requiring that any documents to be served on the Respondent must be served by post and allowing the Respondent to respond in the same manner.
7. Both parties had submitted papers which were copied to each other.

Submissions

8. The Applicant filed a statement on its behalf made by James Beckford, Area Manager of Turners Britannia Parks Limited confirming that the Respondent is entitled to mobile home pitch 1 at Penarth Gardens, having been assigned the pitch on 26th April 1996, by virtue of an Agreement (“the Agreement”) made pursuant to the Mobile Homes Act 1983 (“the Act”).
9. The Applicant claims that the Respondent is in breach of Chapter 2 of Part 1 of Schedule 1 of the Act by failing to keep the pitch, including all

fences and outbuildings belonging to, or enjoyed with, it and the mobile home, in a clean and tidy condition.

10. The Applicant submitted photographs in support of this claim which clearly show the overgrown vegetation around the mobile home.
11. On the 30th June 2020 the Applicant, through its solicitors, served on the Respondent a notice of breach (“the Notice”) asking the Respondent to remedy the breach by cutting the grass, repairing the steps and generally improving the appearance of the pitch to bring it to a neat and tidy condition. The Respondent was asked to do so within 28 days of the day of the Notice, which expired on 30th July 2020.
12. The Respondent had not replied to the Notice and the Applicant contends that no action was taken by the Respondent to remedy the alleged breach.
13. On 30th October 2020 the Applicant’s solicitors sent a further letter giving the Respondent a final opportunity to cooperate (“the Pre-action letter”). No reply was received from the Respondent.
14. The Applicant asserts that it is entitled to make an application to the County Court for permission to terminate the Agreement but states that its primary aim is to seek a remedy of the breach and asks the Tribunal to determine that the Respondent is in breach of Implied Terms 21(c) and 21(d) of the Agreement and asks the Tribunal to direct that the Respondent must tidy the pitch and outside of the home within a reasonable and specified time.
15. On 20th March 2021 the Respondent replied to the Tribunal asserting that the overgrown vegetation was Mare’s tails which could not be dug up or killed with ordinary weedkiller. The Respondent also refers to personal issues relating to her age and income. The Respondent accepts that there are weeds on the pitch and also suggests that the weeds have pushed the cement out of the steps and slabs.
16. On 1st April 2021 the Applicant submitted a further statement from Mr Beckford in which he says that the Applicant itself has previously treated the vegetation on pitch 1, that he has not received any other reports of Mare’s tail on the site and that it is the responsibility of the Respondent to regularly maintain the pitch so that weeds do not get out of control.

Consideration and Determination

17. The Tribunal first considered whether it felt able to reasonable and fairly decide this case based only on the papers submitted by the parties. It decided that it could reasonably do so.
18. The Respondent does not argue with the allegation that the pitch is overgrown nor that the steps are damaged. From the documents and photographs submitted with the application the Tribunal is satisfied that

the pitch has not been maintained in a clean and tidy condition and, therefore, the Respondent is in breach of the Implied Terms 21(d) of the Agreement.

19. From the photographs submitted it is also evident that the plastic gutters and down pipes of the home are dirty and the outside surface of the home itself is stained around an external gas flue. Accordingly, the Tribunal finds that the Respondent is also in breach of the Implied Terms 21(c) of the Agreement.
20. The Tribunal directs that, within 28 days of this decision the Respondent shall take the necessary actions to return the pitch and the outside of the mobile home to a clean and tidy condition.

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.