



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

**Case reference** : **CAM/22UL/PHI/2014/0008**

**Site** : **Crouch Park,  
Pooles Lane,  
Hullbridge,  
Hockley,  
Essex SS5 6PX**

**Park Home address** : **39 Crouch Park**

**Applicant** : **Wyldecrest Parks (Management) Ltd.**

**Respondent** : **Ms. Sally MacEwan**

**Date of Application** : **5<sup>th</sup> June 2014**

**Type of application** : **to determine pitch fee for the  
address**

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

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## **DECISION**

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1. The Tribunal determines that the monthly pitch fee for the pitch known as 39 Crouch Park as from 1<sup>st</sup> April 2014 is £148.97.

### **Reasons**

#### **Introduction**

2. The Respondent is the occupier of the park home known as 39 Crouch Park placed on the pitch forming part of the Applicant's park home site at Hullbridge in Essex and she has not agreed to an increase in pitch fee for 2014 in line with the Retail Prices Index ("RPI"). The site owner must therefore apply to this Tribunal if it is to obtain an increase in pitch fee. There does not appear to be any dispute that the annual review date for pitch fees is on 1<sup>st</sup> April as is set out in the occupation agreement.
3. It is not contested that on the 24<sup>th</sup> February 2014, a letter was written to the Respondent, explaining that as from the 1<sup>st</sup> April 2014 the pitch fee would be increased in line with RPI i.e. 2.8% in accordance with the Office for National Statistics figures produced at page 46 in the bundle supplied to the Tribunal for this determination. The RPI rate is not contested by the Respondent.

4. Following receipt of this application, a copy was sent to the Respondent. An unsigned and undated 'statement' was received from her in which she complains about what is included in the pitch fee. When she moved onto the site in 1988 she paid one cheque to the then site owner to include the pitch fee, water charges and sewerage charges. In 2008 the then site owner started adding a water charge of £5.50 per month.
5. Following complaints from both the Respondent and the residents' association a figure of £5.50 per month was deducted from the pitch fee in March 2011. The Applicant says in its witness statement at page 13 in the bundle that it took over the site in August 2011 and this decision to remove the additional charge for water rates from the pitch fee was taken by a previous site owner. In other words the writer of the statement is suggesting that it was nothing to do with him. This is not fully understood by the Tribunal because there is a letter from 'Wyldecrest Properties Ltd.' at page 47 in the bundle addressed to the residents dated 31<sup>st</sup> January 2011 setting out the reduction. This is not the same company as the Applicant but Mr. David Sunderland signed both that letter and the statement at page 13.
6. The Respondent also complains that the water rate figure does not include sewerage rates and that there is also an arrears figure on her account from the period 2008-2011 in respect of the additional £5.50 per month paid for that period. As far as sewerage rates are concerned, the Applicant states that the term 'water rates' is a generic term to include sewerage charges.
7. As far as any arrears are concerned, the question for this Tribunal only concerns the pitch fee payable from 1<sup>st</sup> April 2014. If there was an overcharge for 2008-2011, then this should be refunded by the Applicant. However, without looking into the matter in any more detail, it seems to this Tribunal that the agreement reached in 2011 was just that i.e. an agreement which did not include anything about refunding past payments due.
8. The Tribunal issued a directions Order on the 19<sup>th</sup> June 2014 saying that the Tribunal was content to deal with this matter by considering the papers only, to include any representations from the parties, and would do so on or after 12<sup>th</sup> August 2014 unless any party requested an oral hearing which would then be arranged. No such request was received.
9. The Tribunal ordered one exchange of statements. Regrettably there have been several exchanges of statements with first one party then the other not content to rely on submissions made. Just before the Tribunal's determination, the Respondent drew the Tribunal's attention to the fact that several of her documents were missing from the bundle. These were sent and this decision has been made having taken all documents into account.

### **The Occupation Agreement**

10. A copy of such agreement has been produced which seems to comply in all material respects with those terms imposed by the **Mobile Homes Act 1983** ("the 1983 Act") as it was. The only material amendments since have been to give this Tribunal, rather than the court, jurisdiction to deal with the approval of pitch fees if agreement cannot be reached.
11. The express and Statutory terms are intended to provide protection to park home owners because the site owner is perceived to have the 'upper hand' in an unequal negotiating position. As far as pitch fees are concerned, the provisions are quite straightforward. The initial pitch fee is negotiated between the parties and the site owner can only increase the pitch fee annually with the agreement of the occupier or with the permission of this Tribunal.
12. There can be an annual review of the pitch fee. If there is, notice then has to be given to the occupier of the result of that review within certain time constraints set out in the agreement prior to the 'review date'. Now, certain statutory information has to be served on the occupier in addition to the notification of the result of the pitch fee review. The Tribunal agrees that the statutory information has been given and the relevant time limits have been complied with in this case.
13. As to the pitch fee set out in the agreement, this is a contractual matter. This Tribunal has no power to interfere with what was agreed. Unlike the jurisdiction of this Tribunal to assess fair and open market rents, there is no suggestion in either the agreement or the 1983 Act that the Tribunal starts a *de novo* consideration of the open market position with regard to pitch fees either on the same site or other sites.
14. As to the amount of any increase or decrease in the pitch fee, the starting point is that regard shall be had to the RPI. Schedule 1, paragraph 18 of the 1983 Act, which overrides the express provisions, goes further than this by saying that there is a presumption that the pitch fee will change with the RPI.
15. Upon application, the Tribunal has to determine 2 things. Firstly that a change in the pitch fee is reasonable and, if so, it has to determine the new pitch fee. There is no requirement to find that the level of the pitch fee is reasonable.
16. There are other matters which may be taken into account, depending on the circumstances, i.e. monies spent on the site by the site owner, whether there has been a reduction in the 'amenity' of the site since the 26<sup>th</sup> May 2013 and any other statutory requirement.
17. The agreement, at page 23 in the bundle, does actually provide for the occupier to pay water rates and sewerage charges in addition to the pitch fee. The Respondent's witness Mrs. Blackburn, the previous site owner, says that the pitch fee included those charges. However, the Respondent herself says that she initially "*paid sewerage charges, water rates and the pitch fee as one charge each month by cheque*".

The terms of the written agreement are a highly significant matter and will be discussed later.

**Site Inspection**

- 18. As no-one had raised any issues which required an inspection of the site or the pitch, none was arranged in this case.

**Conclusions**

- 19. As to whether a change in the pitch fee is reasonable, the Tribunal is conscious of the wording of the 1983 Act as mentioned above i.e. that the starting point is a change in line with the RPI. Where, as in this case, there has been a change in RPI, one is almost bound to conclude that a change is reasonable. The Tribunal does so find in this case.
- 20. There does not seem to be any dispute that the formalities imposed by the 1983 Act as to the undertaking of a pitch fee review, the service of notice of increase plus statutory information and the time limits for the application to this Tribunal have been complied with. Thus the Tribunal accepts that they have all been complied with.
- 21. The Tribunal concludes that the pitch fees shall be increased in accordance with RPI as from 1<sup>st</sup> April 2014 as set out in the decision above.
- 22. As has been said above, there is no obligation on this Tribunal to determine a 'fair' pitch fee. The parameters are set down by the legislation, not by this Tribunal, and the fact is that having agreed to the original fee, there is likely to be an increase every year unless a reduction in amenity since the last review can be proved. Unfortunately for the Respondents, it cannot be proved in this case.
- 23. It is clear that the RPI figure has only been added to the pitch fee element of the monthly payments. As to whether and what additional matters are payable, the written agreement is clear i.e. that the occupier has to pay a pitch fee plus water charges and sewerage charges. Mrs. Blackburn, at page 56 in the bundle, claims that these rates were "*included in the ground rent for the plots*". However, that is not what the agreement states. The Tribunal concludes that, as a matter of convenience, they were collected at the same time and may not have even been separately invoiced but were included in the one payment.
- 24. What is clear is that for at least 2012, 2013 and this year, the Respondent has been told each year what the pitch fee is and what the 'water and sewerage' charges have been.

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**Bruce Edgington**  
**Regional Judge**  
**14<sup>th</sup> August 2014**