



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

Case Reference : **MAN/36UB/PHC/2021/0003 (VHS)**

Site : **Three Peaks Park, Ingleton, Carnforth
North Yorkshire LA6 3DL**

Applicant : **Mrs Glenis Gaunt**

Respondent : **Leisure Parks Limited**

Type of Application : **Section 4 Mobile Homes Act 1983 (as amended)**

Tribunal Members : **Laurence Bennett (Tribunal Judge)
Peter Mountain (Valuer Member)**

Date of hearing : **16 December 2021**

DECISION

Application

1. Mrs Glenis Gaunt applies under Section 4 of the Mobile Homes Act 1983 (the Act) relating to 10, Three Peaks Park, Ingleton, Carnforth, North Yorkshire LA6 3DL, a mobile home.
2. Mrs Gaunt's application was received on 22 March 2021. Box 5 of the application form sets out the Applicant's questions:
 1. An order that the owner must comply with implied Term 22b(ii) and provide documentary evidence of his charges for utilities
 2. An order that the owner must comply with his maintenance obligations of the common areas of the park as set out in Implied Term 22(d)
 3. An order that the owner must comply with Express Terms 2 (a and b) and the conditions of his site licence
 4. An order for the owner to refund our tribunal costs in full.

Background

3. On 27 July 2021 the parties participated in a video case management conference with Judge Bennett. The issues were clarified and directions made for determination of the application.
4. In compliance with directions the parties have provided case and position statements, copy correspondence, documents and submissions. The Tribunal did not conduct a site inspection.

Hearing

5. A video hearing took place on 16 December 2021 using VHS. The parties accepted the form of hearing.
6. Mrs Gaunt attended the hearing with her husband Mr James Gaunt.
7. Mr Craig Ellis and Miss Tracey Stevenson attended on behalf of the Respondent, Leisure Parks Limited.

Background

8. Mrs Gaunt is the owner and occupier of a park home at the site, Three Peaks Park, Ingleton, Carnforth, North Yorkshire LA6 3DL (the Site).
9. Mrs Gaunt's agreement is dated 27 February 2015 and was made with the then site owner W&N homes, the Respondent's predecessor in title.
10. Mrs Gaunt stated at the case management hearing that since the Respondent's ownership she has developed concerns about the running of the site, particularly regarding the arrangements set out in her list of issues.

The Law

The Mobile Homes Act 1983 as amended by the Mobile Homes Act 1983 (Jurisdiction of Residential Property Tribunals)(England) Order 2011 provides that:

1.Particulars of agreements

- (1)This Act applies to any agreement under which a person (“the occupier”) is entitled—
- (a)to station a mobile home on land forming part of a protected site; and
 - (b)to occupy the mobile home as his only or main residence.
- (2)Before making an agreement to which this Act applies, the owner of the protected site (“the owner”) shall give to the proposed occupier under the agreement a written statement which—
- (a)specifies the names and addresses of the parties;
 - (b)includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;
 - (c)sets out the express terms to be contained in the agreement;
 - (d)sets out the terms to be implied by section 2(1) below; and
 - (e)complies with such other requirements as may be prescribed by regulations made by the appropriate national authority.
- (3)The written statement required by subsection (2) above must be given—
- (a)not later than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, or
 - (b)(if no such agreement is made before the making of the agreement to which this Act applies) not later than 28 days before the date on which the agreement to which this Act applies is made.
- (4)But if the proposed occupier consents in writing to that statement being given to him by a date (“the chosen date”) which is less than 28 days before the date mentioned in subsection (3)(a) or (b) above, the statement must be given to him not later than the chosen date.
- (5)If any express term—
- (a)is contained in an agreement to which this Act applies, but
 - (b)was not set out in a written statement given to the proposed occupier in accordance with subsections (2) to (4) above,
- the term is unenforceable by the owner or any person within section 3(1) below.
- This is subject to any order made by the court under section 2(3) below.
- (6)If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (4) above, the occupier may, at any time after the making of the agreement, apply to the court for an order requiring the owner—
- (a)to give him a written statement which complies with paragraphs (a) to (e) of subsection (2) (read with any modifications necessary to reflect the fact that the agreement has been made), and
 - (b)to do so not later than such date as is specified in the order.
- (7)A statement required to be given to a person under this section may be either delivered to him personally or sent to him by post.
- (8)Any reference in this section to the making of an agreement to which this Act applies includes a reference to any variation of an agreement by virtue of which the agreement becomes one to which this Act applies.
- (9)Regulations under this section—

- (a) shall be made by statutory instrument;
- (b) if made by the Secretary of State, shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
- (c) may make different provision with respect to different cases or descriptions of case, including different provision for different areas.

2. Terms of agreements

(1) In any agreement to which this Act applies there shall be implied the 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 a 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

Tribunal's evidence and submissions

11. Mrs Gaunt confirmed at the hearing that the issues she wished the Tribunal to consider were those set out in her position statement entitled "First Position Statement of the Applicant". This was produced after the case management conference. Other documents submitted including copies of contemporary correspondence addressing some of the issues raised at the case management conference. The Respondent made written submissions setting out actions taken following the case management conference and a response to Mrs Gaunt's points.
12. At the hearing both parties addressed the issues in the order set out in Mrs Gaunt's position statement.
13. The relevant evidence and submissions are set out in our conclusions below.

Tribunal's conclusions with reasons

14. These conclusions follow the order set out in Mrs Gaunt's position statement.

Pitch fee increases
15. Mrs Gaunt clarified that she has not paid pitch fee increases notified for years 2020 and 2021. Miss Stevenson confirmed that the Respondent has taken no action in respect of notices of increase, she mentioned national pandemic restrictions.
16. The Tribunal observes that such increases had neither been agreed nor determined by a Tribunal and the time for the Respondent to make an application has passed. Accordingly, it is not necessary for an order in respect of the same as any notification of increase is ineffective.

Documentary evidence in respect of utility charges
17. Mrs Gaunt related her difficulty obtaining evidence of underlying utility charges so she could check the amounts demanded. She acknowledged outstanding copy utility bills

were provided shortly after the case management conference. Miss Stevenson accepted they should be provided and in future copies will either be hand delivered if she is on site or emailed to Mrs Gaunt. Mrs Gaunt accepted this would be satisfactory.

18. We find that the outstanding copy bills requested have been provided and arrangements are agreed in respect of future charges. The Respondent is aware of requirements. Accordingly, the Tribunal does not identify a question to determine nor that an order is appropriate.

Maintenance of site

19. Mrs Gaunt identified items of disrepair largely relating to the roadway, its drainage and signage and replacement of streetlight bulbs. She acknowledged that repairs have been carried out although a bulb has recently failed. She clarified that the road is prone to flooding in adverse weather as a drain is easily blocked near its entrance. She said a different drain should be installed as it is not satisfactory. She accepted that potholes have been filled in and light bulbs have been changed but considers that improvements and resurfacing of the road should take place to improve the amenity and attractiveness of the site.
20. Mr Ellis detailed his policy for repair; emergencies particularly matters such as leaks which might cost residents money are attended to immediately. Once advised a light bulb is out, arrangements are made for it to be replaced as has happened on this site. Less urgent repairs for example the potholes which have recently been filled in are not an emergency. Miss Stevenson observed that those the subject of Mrs Gaunt's complaint were less than 40mm deep. The Respondent arranged for them to be filled in as part of its normal maintenance planning.
21. Mrs Gaunt confirmed that issues regarding the laundry room have been resolved and this was no longer raised.
22. The Tribunal notes the original points of disrepair mentioned by Mrs Gaunt. It is evident that potholes had appeared and that the site roadway floods in heavy rain. Repairs have now been carried out and from Mr Ellis, undisputed by Mrs Gaunt, one of the site occupiers clears leaves from the offending drain when necessary. We were satisfied from Mr Ellis' categorisation of repairs that the Respondent has a systematic approach to categorisation and completion of repairs and as such, we find the Respondent has complied with its duties to maintain the site.
23. Mrs Gaunt as reflected by Mr Ellis considers improvement of the roadway would add value for site owners. We find this would be an improvement and beyond the scope of maintenance and repair. We note from Mr Ellis' evidence that he has asked occupiers whether they wish to contribute towards this improvement but the majority have declined.
24. Bearing in mind we find the arrangements made for site maintenance are compliant with the implied terms of occupiers' agreements; we make no order.

Display of site licence, certificates of insurance etc

25. Mr Ellis stated these have been placed on the site notice board but have since disappeared. Mrs Gaunt confirmed that all occupiers have access to the notice board lock and use it to display items of their own. She was not aware why items have disappeared. Mr Ellis and Miss Stevenson said they would replace the necessary copies and change the lock to avoid similar circumstances.

26. We are satisfied from the Respondent's evidence that the requirement to display the specified documents has been observed although we note that subsequently missing documents need to be replaced. Accordingly, we make no order.

Summary

27. In summary, we have found that the requirements of the written and implied terms specified by Mrs Gaunt have been carried out and observed by the Respondent, albeit Mrs Gaunt may have considered at one point they were not. We have not found a failure by the Respondent.

Reimbursement of Tribunal fees

28. Mrs Gaunt considers that the Respondent would not have taken any of the actions above without her pursuing these proceedings. She said that complaints to other bodies and authorities had not produced a result and for that reason it was necessary for the Tribunal application to be issued. On that basis, she requests the reimbursement of the application and hearing fees. Mr Ellis and Miss Stevenson deny this to be the case and pointed to their experience in running other sites and universal satisfaction of occupiers on those sites.
29. It is not possible for us to determine whether the Respondent's attention to the issues was a consequence of these proceedings, although we observe the activity that has taken place since the Mrs Gaunt's application was made. We do not find the underlying nature of Mrs Gaunt's complaints nor prior conduct of the Respondent egregious to the extent this would warrant a refund of fees. We observe that Mrs Gaunt may have been unsettled by the change in ownership and owner's established routines and may have high aspirations for improvement of the site. This may have led to her close consideration of the Respondent's performance. However, we find this is not a case in which repayment of fees is appropriate and decline to make an order.

Order Accordingly

Laurence J Bennett
Tribunal Judge
16 December 2021