



**IN THE MATTER OF AN APPEAL BY LLOYDS MANAGEMENT LIMITED
PURSUANT TO THE GANGMASTERS (APPEALS) REGULATIONS 2006
BETWEEN**

LLOYDS MANAGEMENT LIMITED

Appellant

and

THE GANGMASTERS LICENSING AUTHORITY

Respondent

HELD AT BIRMINGHAM

ON 10 OCTOBER 2013

BEFORE THE APPOINTED PERSON, EMPLOYMENT JUDGE PERRY

Representation

**Appellant: Mr Prem Singh Johal (the Principal Authority of the appellant)
Gangmasters Licensing Authority: Mrs L Gilligan (solicitor)**

DECISION

The decision of the Appointed Person is that the appeal against the decision of 17 January 2013 to revoke the Gangmaster's Licence issued to the appellant is dismissed and the Gangmaster's Licence issued to the appellant shall be revoked with effect from 14 October 2013.

REASONS

The decision on this appeal and the reasons for it were given orally at the Hearing on 10 October 2013. Here follow written reasons as required by regulation 22(1) of the Gangmasters (Appeals) Regulations 2006.

1. This is an appeal against the revocation of the Gangmaster's Licence issued to Lloyd's Management Limited on 16 November 2011. The Principal Authority for the appellant is Mr Prem Singh Johal. The licence was revoked by the Gangmasters Licensing Authority (GLA) on 17 January 2013. This was not effect immediately so the appellant was permitted to continue to trade pending the outcome of the appeal.
2. Before I relay the background to this appeal I first need to set out a brief background to the scoring system operated by the GLA for the grant and continuing assessment of licence holders. The Licensing Standards and scoring system are published and infringements categorised according to the

seriousness of the same. Critical non-compliances are scored as 30 points, non-critical non-compliances as 8 points. If the total score is 30 points or more the licence can be revoked.

3. In this instance the appellant was found to have breached twelve Licensing Standards, five of which were deemed critical non-compliances, and in addition the appellant was considered to have breached Licensing Standard 1.1 – the ‘fit and proper person’ test, and Licensing Standard 1.2 – the ‘principal authority competency’ test.
4. I make the distinction between the breaches of standards 1.1 and 1.2 and the others on the basis that at least to an extent the GLA in identifying whether the claimant was in breach of 1.1 and 1.2 were potentially taking into account matters arising out of the breach of the other standards. Accordingly whilst I am conscious there may be a double count in relation to points scoring to a greater or lesser extent, the appellant’s total score when viewed against the standards was 266.
5. Overall therefore it is alleged there were breaches of some fourteen Licensing Standards including seven critical non-compliances.
6. I had before me today a bundle running to some 862 pages, witness statements from Mr Johal and a number of witnesses the appellant intended to rely upon and two statements from the GLA on behalf of its enforcement officer, Mr Yensen and the officer who determined the appellant’s license should be revoked, Miss Wilson. They were both in attendance. The witnesses for whom Mr Johal had provided statements were not. I indicated I would give such weight to the same as I deemed appropriate.
7. A running order was agreed and I explained the way that matters would proceed. Mr Johal confirmed that he was content with the way the appeal would be dealt with and that he understood the same. It was agreed the appellant would give evidence first.
8. Whilst Mr Johal was giving evidence, he was taken to the matters on which the GLA relied to support the alleged breach of each standard in turn by Mrs Gilligan I ensured matters were explained to him and re-put questions to him so I could satisfy myself that he understood what was being put to him and the answers he was giving.
9. Despite initially disputing there was a breach of each of the Licensing Standards, once the factual basis for each breach was put to him Mr Johal accepted each of the standards had been breached including the ‘principal authority competency’ and ‘fit and proper person’ tests.
10. As a result I asked him to identify how it was that he said that the GLA were not entitled to revoke his licence. To that end I asked him whether he objected to the point scoring system adopted by the GLA in relation to the Licensing Standards. He did not. That in my view is a well known, clear and proportionate system and time and again has been endorsed by persons appointed to hear these appeals.
11. When I asked Mr Johal if there was any reason why the licence should not be revoked, the only matter that he raised was the issue of his workers. The question thus appears to be not whether the licence should be revoked and

the appeal dismissed but when the decision was to take effect (see regulation 22(1)(b) of the Gangmasters (Appeals) Regulations 2006).

12. Before I address that issue I should add that I asked Mr Johal if he wished to ask any questions of Mr Jensen and Miss Wilson. He confirmed that he did not. Miss Wilson was the decision making officer and I had previously explained to Mr Johal that he needed to challenge any matters he disputed by asking questions of the witnesses. His decision not to challenge her alongside him accepting a breach of all fourteen standards which the appellant was alleged to have breached are in my judgment support for the proposition that he was no longer disputing in any sense that the fact that the appeal should not be dismissed.
13. Even if I am wrong on those matters that proposition is further supported by his failure to bring forward any grounds for the appeal to be dismissed despite me having specifically put that question to him and asked for his comments.
14. In my judgment therefore the appellant's appeal shall be dismissed and its license revoked.
15. The sole question therefore relates to the date that should take effect. I note in that regard that the claimant admirably has concerns for the safeguarding of his workers and their livelihoods.
16. I note when seeking a postponement of this appeal (an application that was not repeated by Mr Johal today) he stated this was a quiet time of year. Indeed he told me that only one of the labour users that he is engaged in dealings with has any workers assigned to it at this time and there were only 40-50 in number. He told me many of the workers had already gone home.
17. I asked him as to what steps he had taken to make provision for them. He told me that he did not think it would come to this (that is the revocation of his licence). I find that odd given that the appellant's licence was revoked, that was made known to him and that he was in the process of appealing that revocation.
18. I am assured by the GLA that in circumstances such as this they have a practice whereby the labour users will be informed. That is unsurprising. If there was no such practice in place the labour users unwittingly could commit an offence. I am satisfied therefore that the labour users will be informed.
19. I am also advised that there are provisions in place such that the labour users can make other arrangements for their workers and indeed the labour users that the appellant has contracts with, have been in this situation before.
20. I am conscious also that the purpose of the GLA is to protect workers from exploitation. Many of the matters that the Standards address are basic tenets, such as health and safety. I have been told and the appellant has accepted that he is in breach of at least three health and safety standards that were of a non-critical nature and one health and safety standard of a critical nature. In addition he has employed workers who do not have the right to work in the UK and accepted he breached the standard with regards to the quality of accommodation provided to workers. Irrespective of the breach of matters relating to pay, holiday and other similar matters, the matters I have

just relayed are matters that can substantially affect the health and safety of workers concerned.

21. I am of the view that Mr Johal has little grasp of what is required of him as a Principal, indeed he admitted as much, he told me he needed guidance despite him having held a licence for approximately a year prior to the revocation of the licence and for almost year whilst this appeal has been ongoing.
22. I consider it troubling that he feels the need for guidance and has such little grasp as to what is required. I am thus concerned for to the health and safety of the workers that he engages and accordingly I determine that the licence should be revoked with effect from 14 October 2013. I have identified that date to allow one working weekday to allow the labour users to be notified by the GLA.

Signed by
Employment Judge Perry
the Appointed Person
11 October 2013