



THE GANGMASTERS (APPEALS) REGULATIONS 2006

YF Recruitment Ltd
("YF")
Appellant

Gangmasters Licensing Authority
("GLA")
Respondent

Decision

The appeal by YF Recruitment Ltd against the revocation on 8 December 2009 of their licence number YFRE0001 dated 8 August 2008 fails and is dismissed. The revocation will take effect on 10 March 2010.

SUMMARY REASONS

Introduction

1. On 8 December 2009, the GLA revoked without immediate effect YF's Gangmasters' Licence dated 8 August 2008 for which Mr Shane Amos was by then the Principal Authority, i.e. the "live" gangmaster, because he was not a fit and proper person in the sense of competence and capability to hold a licence.
2. On 5 January 2010, Mr Amos appealed against that decision with grounds prepared on his behalf by Mr Terrence Godfrey of Boston Commercial Centre Ltd who regularly assists gangmasters with all matters pertaining to the GLA, including appeals, and provides support services and training to gangmasters.
3. Both parties agreed that the appeal should be dealt with without an oral hearing.

Evidence Considered

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4. I was supplied with a bundle of documents and some later documents. I had general regard to all those documents and in particular to the following:-

29 October 2009	Inspection Report by Paul Cunningham
8 December 2009	Letter of revocation
5,7 January 2010	Appeal and grounds
16 January 2010	Final statement by Appellant
21 January 2010	GLA response to appeal
10 February 2010	GLA response to para 5 of the final statement.

5. The Inspection Report formed the basis of the conclusions of the GLA. Its factual contents were not substantively challenged by Mr Godfrey on behalf of Mr Amos. I accept that evidence. No witness statements were submitted by or on behalf of YF of Mr Amos. However, the grounds of appeal and the final statement submitted by Mr Godfrey are cogent and I give them equal weight.

6. On the basis of all of that material, I find the following facts.

The Facts

7. YF submitted an application for a Gangmasters' Licence with a Mrs Yvonne Frost as the Principal Authority. The licence was issued on 8 August 2008. This was for "a new business" licence granted before YF began to act as a gangmaster and have any workers and so a full test of the licensing standards was not possible. That licence was last renewed on 11 August 2010 and remains a "new business" licence.

8. In the meantime, Mr Amos had acquired YF as an alternative and quicker way of securing a Licence. He was accepted by the GLA as the new Principal Authority on 31 July 2009.

9. That prompted the Inspection by Mr Cunningham on 26 October 2009 and he submitted his report on 29 October 2009.

10. That led to the revocation of Mr Amos's licence on 8 December 2009 because he was found to be non-compliant in respect of Licensing Standard 1.2 Principal Authority Competency Test which provides, April 2009 edition, page 17, that the GLA will consider the Principal Authority's competence and capability to hold a GLA licence in deciding whether he is "fit and proper". The GLA decided that Mr Amos was not "fit and proper" to hold a licence for reasons set out in the revocation letter arising from that inspection;

- (a) he had no paperwork whatsoever,
- (b) he had no draft contracts,
- (c) he did not display any ability/acumen required to run a business.

11. Against that, Mr Godfrey says;
- (a) Mr Amos has worked on the land all his working life and wanted control of his destiny and so bought YF as a quicker way to get a licence,
 - (b) he then sought assistance from Mr Godfrey who gave him advice about the practicalities and GLA requirements,
 - (c) he only has aspirations to run a cutting gang of some 6 men,
 - (d) revocation of YF's licence seems disproportionate and unfair when Mr Amos had taken steps to ensure that when he commenced trading he would meet all the required standards with the professional assistance he had sought, from the outset,
 - (e) he asks that I order a further inspection by the GLA
 - (f) Mr Godfrey would be providing training.

12. However, as Mr Godfrey acknowledges, "a licence is a licence" and not in this case subject to conditions to ensure compliance before supplying workers. As the GLA point out, I have no power to order a further inspection.

13. The failure to comply with Licensing Standard 1.2 carried with it 30 points at the critical level which brings with it revocation of the licence.

14. In support of their response, the GLA quote a decision of another Appointed Person on 20 May 2009 in the case of the Appeal of Solid Gold Services Ltd. I am not bound by any decision of another Appointed Person. However, I do agree entirely with what he said in that case and quoted by the GLA:-

"The question whether the Appellant was compliant with the licensing standards has to be determined at the date of the inspection and not some later date ... A number of steps have since been or will be taken to ensure compliance ... misses the point that it is at the date of inspection that the Appellant must be able to demonstrate compliance with the Licensing Standards. The conclusion may be drawn that the Appellant was not sufficiently advanced in its preparation at the time of the inspector's visit."

That is precisely the position in the case of YF and Mr Amos.

Conclusion

15. Whilst I have some sympathy with Mr Amos in that he must complete his business preparation and training before applying for a new licence, I have no hesitation in agreeing with the GLA that at the date of the inspection he had failed to

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comply with Licensing Standard 1.2. Accordingly, the decision to revoke his licence was entirely correct.

16. This case, as did the other recent case relating to Powerstaff, points up the risks in circumventing the usual licence application process by acquiring an existing dormant and non-trading company gangmaster and applying to change the Principal Authority. On the otherhand, it would perhaps be better if the Competency Test could be applied to the application to change the Principal Authority if that were possible.

17. YF's appeal therefore fails and is dismissed.

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Appointed Person

Date: