

THE GANGMASTERS (APPEALS) REGULATIONS 2006

In the matter of an appeal against a decision made by the
Gangmasters Licensing Authority (Ref 3/E/C)

MR P WEST- LINCOLNSHIRE STAFF SERVICES

V

THE GANGMASTERS LICENSING AUTHORITY

Appointed Person

Mr John Walker

Representing the Appellant

Mr Peter West

Representing the Respondent

Mr John Hodgson, Solicitor

Witnesses

Mr David Carroll, GLA Inspector

Mr Malcolm Bentley, VOSA

Mr Ian Wilkinson, GLA

Mr P West, Appellant

Decision and Statement of Reasons of the Appointed Person in relation to the above matter.

Decision

Upon consideration of the appeal documents and accompanying letter lodged by the Appellant and the reply to the appeal and accompanying papers lodged by the Respondent and upon consideration of the verbal evidence of the witnesses called, it is the decision of the Appointed Person that the **Appeal of Mr Peter West be dismissed.**

Statement of Reasons

1. Regulation 12(1) of the Gangmasters (Licensing Authority) Regulations 2005 states that " the Authority shall have regard to the principle that a person should be authorised to act as a gangmaster only if and in so far as his conduct complies with the requirements of paragraph (2)", namely "compliance with any obligations imposed by or under any enactments in so far as they relate to, or affect the conduct of, the licence holder or a specified person as persons authorised to undertake certain activities". The GLA must therefore pay due regard to compliance with the general law.

2. The Public Passenger Vehicles Act 1981 Section 1(a) defines a "Public Service Vehicle" as a motor vehicle "being a vehicle adapted to carry more than eight passengers, [which] is used for carrying passengers for hire or reward". That Act imposes various requirements for licences in relation to such vehicles.

The case law considered in this case (listed below) with regard to the use of a vehicle for hire or reward indicates that the circumstances described in Section 1(5) do not represent an exhaustive list and that "reward" is not limited to fares paid by passengers:-

Rout v Swallow Hotels Ltd [1993] RTR 80
DPP v Sikondar [1993] RTR 90
Albert v Motor Insurers' Bureau [1971] 2 All ER 1345
Regina v Angel Human Resources Southampton Crown Court 25 March 2003

3. In accordance with the evidence of Mr West himself, I find:-

(a) that there was regular use of the vehicle by him between one and three days per week for the carriage of workers/passengers to a place of work which amounts to use in the course of business, and

(b) that the payment for that by Mr West's client of a contract price for the supply of those workers which included the cost of that vehicle as a business expense amounts to reward.

4. Accordingly, I find that the vehicle is used for reward and uphold the additional Licence condition 6.11 imposed by the Gangmasters Licensing Authority.

Footnote

In the absence of a power granted to the Appointed Person to modify the conditions imposed on a Licence, the Gangmasters Licensing Authority indicated that a revised condition would be issued, with a deadline for compliance ten weeks with effect from the eighteenth of December 2006.

Signed.....

Person appointed by the Secretary of State to determine appeals under The Gangmasters (Appeals) Regulations 2006.

Dated...14 December 2006.....