

Case Number: 29-E-R Decision 25 January 2010.doc29-E-R Decision 25 January 2010.doc

In the matter of:
The Gangmasters (Appeals) Regulations 2006

BETWEEN

Active (UK) Services Limited

Appellant

- and -

Gangmasters Licensing Authority

Respondent

DECISION

Upon the Appellant having indicated, by its response received by the Secretariat on 7 December 2009, that it was content for the matter to be determined without the need for attendance by the parties;

And upon my understanding that the Respondent does not dissent from such a course;

And upon such a course being considered appropriate by me, this appeal is thus determined without an oral hearing pursuant to the direction contained in Regulation 15.

IT IS HEREBY DECLARED AS FOLLOWS:

The Appeal is dismissed.



Paul Stewart - Appointed Person

DECISION SENT TO THE PARTIES ON

27-1-2010

AND ENTERED IN THE REGISTER

FOR SECRETARIAT

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SUMMARY OF REASONS FOR DECISION

1. The Appellant applied on 29 June 2009 for a licence. In accordance with its procedure, the Respondent conducted an inspection visit of the Appellant on 24 August 2009. The inspection revealed matters which led to the decision taken on 15 October and notified to the Appellant on 21 October 2009 that the application for a licence would be refused.
2. The reason for the refusal of the licence was set out in some detail in the letter of 21 October 2009.
3. The Appellant entered an appeal which was received by the Secretariat on 26 October 2009. The grounds on which the appeal was based were said to set out on the "attached sheet 3" which contained the following statement:

Since the inspection visit, we have changed our company with proper bookkeeping and changed our term and conditions.

We will be pleased for any further inspection or any conditions to be added to the licence, please give our company the chance to survive.

4. The Respondent's response to the notice of appeal was received by the Secretariat on 30 November 2009. In it, the Respondent stated its position thus:
5. The GLA confirms its original decision as consistent with standard operating procedures, and correct against all reported circumstances, as they existed at the time of the licence application decision.
6. The Respondent noted that the Appellant had not asked to make use to the pre-appeal process, intended to assist those labour providers who consider that the adverse decision made by the Respondent has been made on inaccurate information.
7. The Respondent in response to the appeal highlights the statement set out in paragraph 3 above. In effect, so the Respondent argues, the statement that "since the inspection visit, we have changed our company with proper bookkeeping and changed our term and conditions" amounts to an admission that, at the time of the

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inspection, the company lacked proper bookkeeping or acceptable terms and conditions for worker contracts. Such an admission does not found a satisfactory basis for arguing that the Respondent's decision on the evidence available to it was wrong.

8. For my part, I agree. It would appear that the Appellant accepts that the Respondent was right to refuse the application for a licence on the basis of what was available then to be examined and inspected to see whether the applicant was a suitable recipient of a licence.
9. This conclusion is reinforced by the arrival with the Secretariat on 6 January 2010 of a number of documents enclosed under cover of an undated letter from the Appellant. In the letter, Mr Mukhtar for the Appellant invites Mr Baker of the Secretariat to:

" ... go through our new enclosures from Active UK.

"As you know we are small business for us, to pay for another inspection is above our budgets.

"We will be grateful if you could consider this documents and if it is up to the standard approve by GLA."

10. The fact that the Appellant has modified various aspects of its proposed operation and procedures is not something I can deal with. I can only determine whether the Respondent reached the correct decision on the material made available by the applicant / Appellant in support of the application.
11. If the Appellant has made modifications to that material, then necessarily that means a new application should be submitted. The Appellant implicitly appears to acknowledge this in its letter quoted in paragraph 9 above.
12. I am not able to subvert the appeal process into making it the vehicle for new applications to be made by disappointed appellants who consider they cannot afford the fees set for processing fresh applications.
13. Accordingly, I must dismiss the appeal.



Paul Stewart - Appointed Person

DECISION SENT TO THE PARTIES ON

27-1-2010

AND ENTERED IN THE REGISTER

M. Baker

FOR SECRETARIAT