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Mr. Kuldip Singh – Opiecare Services Limited.

(Appellant)

v

The Gangmasters Licensing Authority

(Respondent)

Decision

Upon reading the Appeal Notification and accompanying documents lodged by the Appellant and the reply to the Appeal and accompanying evidence supplied by the Respondent, it is the decision of the Appointed Person that:-

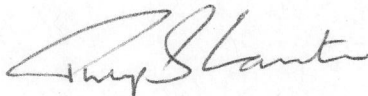
- (1) The appeal is dismissed.
- (2) The decision to refuse a license takes effect from 10th November 2006 as already notified by letter of that date.

Statement of Reasons

- 1) In the absence of any challenge the relevant facts are found to be as set out in the statement of Graham Andrew Cross.
- 2) The admitted failure to have in place at the date of inspection any signed opt-out-agreements for workers working, or potentially working in excess of 48 hours per week is reasonably categorised as a major non-compliance with License Standard 5.2. This is the position even if, as alleged by the Appellant, this only actually affected two members of the workforce at that time and has since been rectified,
- 3) The admitted failure to have in place at the date of inspection and also at the time of the appeal a signed service level agreement is reasonably categorised as a major non-compliance with License Standard 6.1. This is the position even if, as alleged by the Appellant, there was an informal understanding between the labour provider and the labour user, and an unsigned draft, as is now produced, was already in existence,
- 4) The failures observed at the date of inspection in respect to health and safety as set out in Mr Cross's evidence are reasonably categorised as a major non-compliance with License Standard 6.5. This is the position even if these failures have subsequently been rectified, as alleged by the Appellant,

- 5) The admitted failure to have in place at the date of inspection signed written terms and conditions of employment for any employee, when it was then more than two months after commencement of work, is reasonably categorised as a major non-compliance with License Standard 7.3. This is the position even if such documentation was then in the course of preparation and has since been completed,
- 6) The fact that a valid insurance and M.O.T. test certificate for one of the vehicles used to transport workers (N289 KNS), but not for the second vehicle (FV51 C23), has now been produced with the appeal documentation is not material as no critical or major non-compliance with License Standard 6.9 was ever identified or taken into account in reaching the decision to refuse a license.
- 7) In all the circumstances the decision to refuse a license on the basis of a total of seven identified areas of major non-compliance with the License Standards was reasonable.
- 8) The use of the phrase "minded to refuse your application" should be replaced by a form of words which more clearly expresses the fact that the application has, in fact, already been refused. Any potential ambiguity in this regard does not, however, provide any grounds for appeal, particularly where any such ambiguity was, I find, resolved in later communication between the Respondent and the Appellant.

Signed



Philip S, Lancaster