



WEST MIDLANDS TRAFFIC AREA

DECISION OF THE TRAFFIC COMMISSIONER

PUBLIC INQUIRY HELD IN BIRMINGHAM ON 18 JUNE 2018

OPERATOR: RON ROGERS LTD

LICENCE OD0193019

Decision

1. The company Ron Rogers Ltd is not of good repute. Its standard national goods vehicle operator's licence is revoked with effect from 0001 hours on 2 August 2018, pursuant to Sections 26(1)(h) and 27(1)(a) and (b) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the 1995 Act").
2. Company director Andrew Rogers is disqualified for two years, from 0001 hours on 2 August 2018 until 0001 hours on 2 August 2020, from holding or obtaining any type of operator's licence in any traffic area and from being the director of any company holding or obtaining such a licence, pursuant to section 28(1), (4) and (5) of the 1995 Act.
3. Andrew Rogers has lost his good repute as a transport manager, pursuant to schedule 3 paragraph 1 of the 1995 Act. Under paragraph 16(2) of that schedule, he is disqualified for three years, from 0001 hours on 2 August 2018 until 0001 hours on 2 August 2021, from acting as a transport manager on any operator's licence.

Background

Operator details

1. Ron Rogers Ltd holds a standard international goods vehicle operator's licence (OD0193019) for three vehicles and three trailers. There is one vehicle in possession. The licence was granted in June 1995. The authorised operating centre is at Weatherworth Farm, Bradnop, Leek ST13 7HA. The sole director of the company is Andrew Rogers. Mr Rogers is also the nominated transport manager on the licence.

DVSA report

2. In April 2018 I received a report from DVSA traffic examiner Tracey Lowe. She stated that on 5 October 2017 one of the vehicles specified on the operator's licence, FE62 VLB, had been stopped at the roadside and the following issues identified:
 - i) the vehicle's driver, Steven Tatlow, did not possess the necessary C+E category driving entitlement;
 - ii) Mr Tatlow had committed five significant drivers' hours offences over the preceding weeks and eight further minor ones;
 - iii) although the vehicle was specified on the licence of Ron Rogers Ltd Mr Tatlow appeared to be operating the vehicle himself, as he insured the vehicle, paid for its fuel, paid his own wages and received the income from the vehicle's operation. He stated that he had tried to apply for an operator's licence in 2017 but had not been able to get the necessary finances together. Ron Rogers Ltd was helping him out by specifying the vehicle on its licence.
3. Some time later, on 13 March 2018, Tracey Lowe interviewed the director of Ron Rogers Ltd, Andrew Rogers. In answer to her questions, Andrew Rogers stated that:
 - i) Mr Tatlow had been working for Ron Rogers Ltd, under its instructions, on 5 October 2017;
 - ii) Ron Rogers Ltd paid Mr Tatlow's PAYE and National Insurance "as far as I [Andrew Rogers] know";
 - iii) the company had employed M Tatlow since July 2017;
 - iv) he (Andrew Rogers) had "no idea" why Steven Tatlow would claim that there was no business relationship between him and Ron Rogers Ltd or why he would say he was the operator of the vehicle, paying for its fuel etc.
4. I was concerned by this report and decided to call both Ron Rogers Ltd and its transport manager Andrew Rogers to a public inquiry. Call-up letters were sent on 4 May 2018. Driver Steven Tatlow was called to a parallel driver conduct hearing.

Holding of public inquiry

5. The inquiry was held in Birmingham on 18 June 2018. Present were director Andrew Rogers and Laura Newton of Rothera Sharp solicitors, representing the company. Steven Tatlow also attended, as did the DVSA traffic examiner Tracey Lowe.
6. Shortly before the inquiry I received a submission from Ms Newton. The submission accepted that Ron Rogers Ltd had indeed permitted Steven Tatlow to place his vehicle on its licence while he went through the process of applying for his own licence [I note that no application was in the event ever made]. Andrew Rogers regretted his actions and his subsequent denials when interviewed by DVSA. He acknowledged that his actions had been "extremely foolish". He had now submitted the nomination form for a new transport manager, Stephen Hickman [who could not be present], who would ensure compliance in the future. Andrew Rogers himself was booked on an operator licence management course on 12 July 2018, and an independent audit had been arranged for 28 June.
7. During the inquiry itself, Andrew Rogers stated that he had been keen to see Mr Tatlow move forward and become a haulier in his own right. He had therefore agreed to leasing a vehicle from Close Brothers and putting it on his company's licence. Mr Tatlow reimbursed the company for the leasing charges and operated the vehicle. This

arrangement had occurred with three different vehicles in succession. He accepted that the arrangement had continued beyond the interview with DVSA on 7 March until Mr Tatlow had stopped driving the vehicle on 10 April.

8. Andrew Rogers asked that he be allowed to retain a licence at least for one vehicle and one trailer, as he had no other source of income.

Conclusions

9. Clearly, through his actions Andrew Rogers has enabled the de facto operation of an HGV by a person, Steven Tatlow, who could not have obtained a licence himself as by his own admission he lacked the necessary finances.
10. Further, Steven Tatlow's operations went entirely unsupervised. He lacked the entitlement to drive a C+E vehicle combination, as he had failed at some stage to renew his licence. Although his driver card appears to have been downloaded from time to time, no one was responsible for identifying his frequent drivers' hours infringements or tackling him about them.
11. When interviewed by DVSA in March 2018, Andrew Rogers chose to lie about the arrangements rather than admit what had been happening.
12. It was very wrong in the first place for Andrew Rogers to negate the licensing process by enabling Steven Tatlow to operate without one. It was still worse to deceive DVSA about the truth of what was happening: during the course of the interview he told multiple untruths. Even after that interview, Mt Tatlow carried on driving under the guise of Ron Rogers Ltd's licence for a further five weeks.
13. These are not the actions of a reputable transport manager. Nor does Andrew Rogers' conduct inspire any confidence in me that I can rely on him to work in a compliant way in future.
14. The main positive point to balance against this is that Andrew Rogers did at last come clean about the arrangements at the public inquiry, although this was in the face of overwhelming evidence against him.

Decisions

Loss of repute and revocation of the licence

15. On balance, however, I conclude that Andrew Rogers' good repute as a transport manager is lost and I am therefore bound to disqualify from acting as such. Further, as he is the sole director and controlling mind of Ron Rogers Ltd, I also conclude that the company's good repute is lost. Mr Rogers' original deception and his later lying about it in an attempt to conceal the truth mean that the company deserves to go out of business. As the company lacks both professional competence and good repute, revocation is mandatory under Section 27(1)(a) and (b) of the 1995 Act.

Disqualification

16. Andrew Rogers has fallen very far short of the standards expected of a transport manager in knowingly facilitating illegal and non-compliant operations by Steven Tatlow, in trying to deceive DVSA about it later, and in persisting with the arrangement even after being interviewed by DVSA. I am therefore disqualifying him for three years, under paragraph 16 of Schedule 3 to the 1995 Act, from acting as a transport manager under any licence.
17. In deciding whether to disqualify Mr Rogers under Section 28 of the 1995 Act from holding a licence in the future, I have taken account of paragraph 93 of the STC's Statutory Guidance Document 10. This posits a starting point of between one and three

years for a first public inquiry (which this is). I have given Andrew Rogers some credit for being honest at the inquiry. I am thus disqualifying him for the slightly shorter period of two years from holding or obtaining an operator's licence and from being the director of a company holding or obtaining one. But if he is to enter the industry again after that period, he would need to nominate a strong transport manager who could convince a traffic commissioner that he or she would play an active and commanding role in ensuring compliance.

A handwritten signature in black ink that reads "Nicholas Denton". The signature is written in a cursive style with a prominent 'N' and 'D'. Below the signature is a horizontal line.

Nicholas Denton
Traffic Commissioner
2 July 2018