



TRAFFIC COMMISSIONER FOR SCOTLAND

GOODS VEHICLES (LICENSING OF OPERATORS) ACT 1995

MACDIARMID HAULAGE LTD – OM1108431

DECISION OF THE TRAFFIC COMMISSIONER

1. Following a Public Inquiry held at Inverness on 16 October 2018, I issued a written decision dated 7 November 2018.
2. That decision should be referred to for its terms for it records that the transport manager, Mr Graham Cooper, had resigned following the call to Public Inquiry. I disqualified him as a transport manager. The operator's sole director indicated that he could nominate another person.
3. The operator's director was unable to satisfy me on continuing financial standing for the licence.
4. I gave the operator a period of grace to 9 January to nominate a transport manager failing which this licence will be revoked on 9 January 2019 on grounds of lack of professional competence.
5. I gave the operator a period of grace to 9 January to show evidence of continuing financial standing for 5 vehicles failing which this licence will be revoked on 9 January 2019 on grounds of lack of financial standing.
6. The operator has not nominated a transport manager. No form TM1 or equivalent was lodged either at Leeds or at Edinburgh by 9 January. Rather on that day Mr MacDiarmid phoned and e mailed the Edinburgh caseworker with a copy of Catherine MacSween's CPC. There was no documentation to show that Mrs MacSween accepted the appointment and what hours she would provide or when.
7. In respect of finance nothing was received either at Leeds or at Edinburgh by 9 January. Rather on that day Mr MacDiarmid made telephone contact with my Edinburgh office and sent e mails and electronic bank statements which did not show continuing financial standing.
8. The period of grace having extended to 9 January 2019 and a transport manager nomination not having been made by then in proper form and evidence of continuing financial standing not having been submitted, these failings were brought to my attention by the caseworkers in my Office. I was engaged in other business and did not take any decision on 9 January. I am advised that on 10 January Mr MacDiarmid e mailed an on line banking statement showing a deposit that day of £20,000 from a John MacDiarmid. Thus one day after the last day for satisfying continuing financial standing, a deposit which if retained could cover financial standing for the future.

9. I am told that Mr MacDiarmid uses operator self-service and has done so recently to change a vehicle. Yet he has not used that facility to nominate Mrs MacSween.

Considerations

10. I have referred myself to the decision I took following the Public Inquiry on 16 October 2018 and the lack of engagement I found in Mr MacDiarmid. I gave him a chance and a reasonable deadline given what he told me he expected to do to remedy the deficiencies in the licence. He has failed to meet that deadline and what he has produced goes only so far to meet the mandatory requirements for an operator licence.
11. I have to take my own orders seriously. They cannot be idle threats.
12. Thus, I direct that this licence will be revoked as was envisaged by my written decision of 7 November 2018. I will not make the effective date of revocation the date hereof but will postpone for 28 days. Thus, the orders of revocation will come into force at 23.59 on 15 February 2019. I will hold back from making any orders of disqualification. Thus it is for Mr MacDiarmid to apply himself to whether he wants to be a serious compliant operator or not and to apply for a new licence. Whether he would have success with an application for interim will depend on whether his application is in proper order.

Summary of my decision

13. The licence held by MacDiarmid Haulage Ltd is revoked with effect from 23.59 on 15 February 2019 on the grounds of material change, lack of continuing financial standing and of professional competence. Sections 13A, 26(1) and 27 of the 1995 Act apply.

Joan N Aitken
Traffic Commissioner for Scotland
Edinburgh

16 January 2019