



Mixing Concrete Ltd
[2023] UKUT 250 (AAC)

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

UA-2023-000460-T

On appeal from the Decision of Sarah Bell, Traffic Commissioner for London and the South East of England dated 20th March 2023

Mixing Concrete Limited

Appellant

Before: Upper Tribunal Judge Her Honour Judge Beech
Specialist Member of the Upper Tribunal Stuart James
Specialist Member of the Upper Tribunal Dr. Phebe Mann

Hearing date: 10th October 2023

Representation:

The Appellant was represented by Gurjeet Sandhu, the sole director of the company

DECISION

The appeal is DISMISSED

Subject Matter: Resignation of transport manager; failure to respond to correspondence or seek a period of grace; revocation of licence

Cases referred to: None

REASONS FOR DECISION

1. This is an appeal from the decision of the Traffic Commissioner for London and the South East of England (“TC”) dated 20th March 2023, when she revoked the Appellant’s standard national operator’s licence with

immediate effect under s.27(1)(a) of the Goods Vehicles (Licensing of Operators) Act 1995 (“the Act).

2. The background to this appeal is as follows. On 11th March 2022, the Appellant (“Mixingh”) was granted a standard national licence authorising two vehicles and two trailers. The sole director was Gurjeet Sandhu. No vehicles have been specified on the licence since its grant.
3. On 11th February 2023, the nominated transport manager, Harshdeep Mandair, emailed the Office of the Traffic Commissioner (“OTC”) to inform the TC that he had resigned as Mixingh’s transport manager with immediate effect.
4. On the 14th February 2023, the OTC wrote to Mixingh, sending copies of the letter by recorded delivery to its operating centre and to its correspondence address with a further copy sent by email. The letter reminded the company that It was a statutory requirement to have a suitable transport manager designated on its licence or alternatively, to have the benefit of a period of grace and that failure to have either would result in the revocation of the company’s licence under s.27(1) of the Act. The letter invited representations or an application for a public inquiry by 7th March 2023.
5. One of the recorded delivery letters was returned to the OTC (it is unclear which one) marked “*unable to deliver .. as it was not possible to identify the delivery address*”. There was no response in answer to the other recorded delivery letter or to that sent by email. By a letter dated 20th March 2023, the company was informed that its licence had been revoked.
6. On 12th April 2023, Mr Sandhu submitted an application for permission to appeal. He asked that the TC “*rethink*” her decision. He made the following points:
 - a) the company had not operated any vehicles under the licence;
 - b) following the resignation of Mr Mandair, Mr Sandhu had been looking for a suitable transport manager;
 - c) since the granting of the licence “*the business are struggling with the price hike and instability of the market*” (sic);
 - d) he was about to buy a vehicle, hence his search for a new transport manager;
 - e) revocation of the licence will “*hamper my startup of my future*”.

The Appeal Hearing

7. At the hearing of this appeal, Mr Sandhu represented the company. He repeated the above points and averred that as he had not been operating any vehicles, he had not been using his operating centre. Moreover, the company’s correspondence address had changed last year when he had moved and he had forgotten to inform the OTC of the change. It was for these reasons that he did not receive the recorded delivery letters. As for the emailed copy, he had not checked the company’s email account between 12th February 2023 and 20th March 2023 and was therefore

unaware of the need to communicate with the OTC. He had only found out about the revocation when the man who had helped him with his licence application, informed him of it. Mr Sandhu was not aware of the VOL system and as a result, had never logged onto it.

8. Mr Sandhu accepted that he was aware of Mr Mandair's resignation at the time he informed the OTC of it, although he did not think that "*it would happen so soon*". He further accepted that the TC's decision to revoke his licence was not plainly wrong and that he was responsible for the position in which he found himself. Whilst the loss of his licence was a lesson for the future, he nevertheless asked the Tribunal to give him another chance.

Discussion

9. We accepted the account given by Mr Sandhu in his submissions. However, we are satisfied that his assessment of the position is correct: he is the author of his own misfortunes. Having received assistance with the completion of his application form for a licence, it is clear that neither prior to the application being submitted or once the licence was granted, did he take any steps to acquire the requisite knowledge to effectively manage the operator's licence (whether by reading the operator's licence itself or otherwise). If he had done so, he would have been aware that an operator is required to have at least one vehicle specified on its licence; that he could/should have corresponded with the OTC setting out the difficulties the company was having as a result of COVID; that he should have contacted the OTC immediately following Mr Mandair's resignation; that there was the possibility of being granted a period of grace; that he would have known about the VOL system and he would have known that any change of the correspondence address recorded on the licence must be notified to the OTC. In sending out three copies of the letter warning of revocation on 14th February 2023, there was nothing more than the TC was reasonably required to do. Mr Sandhu was advised that his appeal would be dismissed and that he should now apply for a new licence, setting out the circumstances surrounding the revocation of this licence and demonstrating that he could be trusted to operate a compliant haulage operation in the future if the company were to be granted another licence. He has much to learn.
10. The appeal is dismissed.



Her Honour Judge Beech

Judge of the Upper Tribunal

13 October 2023