



Neutral Citation Number: [2025] UKUT 112 (AAC)
Appeal No. UA-2024-001530-T

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER
TRAFFIC COMMISSIONER APPEALS**

**ON APPEAL from the DECISION of the TRAFFIC COMMISSIONER for the EAST
OF ENGLAND dated 17th October 2024**

Before: HHJ Beech, Judge of the Upper Tribunal
David Rawsthorn, Specialist Member of the Tribunal
Craig Barker, Specialist Member of the Tribunal

Appellant: HAPPI & FAMILY CO LIMITED
Commissioner's ref: 0F2076293

Hearing date: 11th March 2025
Mode of hearing: Remote by CVP
Heard at: Field House, Breams Buildings, London, EC4A 1DZ

Representation:
Appellant: Augustin Happi, the Appellant's director

Decision Date: 27th March 2025

SUMMARY OF DECISION

This appeal is DISMISSED.

The Traffic Commissioner's decision to refuse the Appellant's application for a standard national operator's licence involved neither error of law or mistake of fact as per the test in *Bradley Fold Travel & Peter Wright v Secretary of State for Transport* (2010) EWCA Civ.695.

KEYWORD NAME: 100.1 Applications

Please note the Summary of Decision is included for the convenience of readers. It does not form part of the decision. The Decision and Reasons of the judge follow.

DECISION

The appeal is dismissed

REASONS FOR DECISION

Introduction

1. This is an appeal from the decision of the Traffic Commissioner for the East of England ("TC") dated 17th October 2024, when he dismissed the Appellant's application for a standard national operator's licence under s.13(5) of the Goods Vehicles (Licensing of Operators) Act 1995 ("the Act").

Factual background

2. The background to this appeal is as follows. On 22nd August 2024, the Appellant ("the company") applied for a standard national operator's licence authorising two vehicles and two trailers at an operating centre at K B C Logistics in Purfleet. In answer to question 11 of the application concerning financial history, Mr Happi recorded that in 2016, he had left the Armed Forces and that he had found the transition to civilian life difficult and had been unable to pay his bills. He was declared bankrupt in 2016 but this had cleared in 2021.
3. By a letter dated 4th September 2024, the Office of the Traffic Commissioner ("OTC"), informed the company that its application was incomplete for the following reasons:
 - No bank statements or financial documents had been received along with the application. Evidence of financial standing in the name of the company was required over a period of twenty eight days in the sum of £12,500.
 - A signed transport manager declaration.
 - In light of Mr Happi's disclosure that he had been declared bankrupt in the past, he was required to provide further details relating to the bankruptcy along with a copy of the certificate of discharge from bankruptcy.

The company was warned that failure to provide all of the information requested by 18th September 2024 may result in the application being refused. There was no response to this letter.

4. On the 24th September 2024, the OTC wrote to the company again. The letter was intended as a final attempt to resolve the issues raised by no later than 8th October 2024. The company was warned that if by that date, the application remained incomplete, the application would be refused. In response, Mr Happi uploaded credit card statements in his name and bank statements in the name of the company.
5. By a letter dated 17th October 2024, the company's application was refused under s.13(5) of the Act for the following reasons:
 - A signed transport manager application form had not been filed with the OTC in compliance with s.14A(1) of the Act.
 - No details had been received about Mr Happi's bankruptcy and a copy of the certificate of discharge from bankruptcy had not been received in compliance with s.13A(2)(c) of the Act.
6. It would appear that in response to that letter, a signed transport manager application dated 17th October 2024 was filed along with a letter from the Insolvency Service dated 24th October 2024 informing Mr Happi to apply to the Romford County Court for a certificate of discharge from bankruptcy. The certificate of discharge dated 21st November 2024 was filed with the Appeal Court following the appeal being filed on 1st November 2024. It showed that Mr Happi's bankruptcy was discharged on 29th September 2015.

Legal framework

7. By s.13(5) of the 1995 Act, a Traffic Commissioner **must** refuse an application for a standard operator's licence if the applicant has failed to satisfy any of the requirements of sections 13A and 14(A)(1) and Schedule 3 of the Act and in particular, the requirement of being professionally competent, the requirement to be of appropriate financial standing and to be of good repute.

The grounds of appeal and the parties' submissions

8. Mr Happi accepts that he had read the guidance notes (GV79) before completing his application. He did not provide the information requested by the OTC within the time frames set out in the two letters sent by the OTC. He averred that the difficulty was that he had applied for a letter from the Insolvency Service and had not appreciated that the letter would not be sufficient and that a certificate of discharge was required. All he had wanted was more time to obtain the certificate of discharge although he had not asked for more time when it was evident to him that he would not receive the certificate before the second deadline of 8th October 2024. He delayed filing the signed transport manager declaration so that he could

file both the certificate of discharge and the signed declaration at the same time. He was truly sorry for the delay. He accepted that the TC/OTC had not made any errors in the processing of the company's application. He asked the Tribunal to give him a chance if possible. He had served in the armed forces for six years and had a family which he must provide for. This was his first attempt to operate a transport company and the cost of the application was significant. If he were to obtain an operator's licence, it would provide employment for him and other veterans.

Analysis

9. It was explained to Mr Happi that the jurisdiction of the Tribunal is one of review rather than rehearing and that in the circumstances, the appeal was bound to fail. The guidance notes accompanying the operator licence application make clear that if an applicant has an insolvency history, this may affect the applicant's fitness or repute and that the applicant should provide a copy of the certificate of discharge from bankruptcy with the application. At the time the application was made, he had not even obtained the letter from the insolvency service informing him that he needed a certificate of discharge from bankruptcy. Moreover, at the date of refusal, Mr Happi had not provided any details of his bankruptcy as required. Whilst we sympathise with Mr Happi's position, we are satisfied that at the very least he should have obtained the certificate of discharge before filing his application or asked the OTC for more time in order to file the certificate when it became apparent that he could not meet the deadline.

Conclusion

10. Taking all the circumstances into account, we are not satisfied that there was any procedural unfairness in this case or that the TC's decision was plainly wrong in any respect and neither the facts nor the law applicable should impel the Tribunal to allow this appeal as per the test in Bradley Fold Travel & Peter Wright v Secretary of State for Transport (2010) EWCA Civ.695. The appeal is dismissed.

**Her Honour Judge Beech
Judge of the Upper Tribunal**

Authorised by the Judge for issue on 27th March 2025