



Neutral Citation Number: [2020] UKUT 0016 (AAC)

Appeal Nos. T/2019/63

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

**IN AN APPEAL FROM THE DECISIONS OF
Kevin Rooney, Traffic Commissioner for
London and the South East of England dated 14 August 2019**

Before:

**Her Hon. Judge J Beech, Judge of the Upper Tribunal
Stuart James, Specialist Member of the Upper Tribunal
John Robinson, Specialist Member of the Upper Tribunal**

Appellants:

GABRIEL GRIGOROIU

In attendance: The Appellant failed to attend

Heard at: Field House, 15-25 Bream's Buildings, London, EC4A 1DZ

Date of hearing: 7 January 2020

Date of decision: 13 January 2020

DECISION OF THE UPPER TRIBUNAL

IT IS HEREBY ORDERED that the appeal be ALLOWED and the matter be remitted for a further "propose to revoke" letter to be sent to the Appellant at 48 Concord Avenue, Chatham, ME5 9TS

SUBJECT MATTER:- The use of the correct address when sending correspondence to an operator

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 (“the TC”), contained in a letter dated 14 August 2019 when he revoked the Appellant’s restricted public service vehicle operator’s licence with immediate effect under s.17(3)(3) of the Public Passenger Vehicles Act 1981 upon the basis that there had been a material change in the circumstances of the Appellant, namely, that he had failed to respond to a request for continuation documentation.

The Background

2. The appeal bundle contains little by way of background information as it does not include an operator licence summary. It is apparent however, that the Appellant had at some stage been granted a restricted operator’s licence for one vehicle although the date of its grant is not mentioned.
3. The case summary included in the bundle simply states “*As part of a data cleansing exercise focused on PSV licences which have passed their continuation date, Mr Grigoriu was written to on a number of occasions (copies enclosed in file) with no response. The Traffic Commissioner therefore took the decision propose to revoke the licence (sic), and following no response, it was revoked on 06.08.19*”.
4. The correspondence referred to in paragraph 3 above can be summarised as follows:
 - On 12 January 2015, an operator licence continuation letter was sent to the Appellant at 90A Franklin Road, Gillingham, ME7 4DG (which we presume was the Appellant’s correspondence address the time) requesting the return of a completed licence checklist by 31 January 2015. The checklist recorded that the Appellant’s operating centre was situated at Unit 6, The Service Works, Street End Road, Chatham, ME5 0BS. No response was received.
 - On 2 March 2015, a follow up letter was sent to the 90A Franklin Road address, requesting the return of a completed checklist by 16 March 2015. It warned that failure to comply with the request may result in regulatory action being taken against the licence. No response was received.
 - On 24 May 2018 (so three years later), a further letter was sent to the Appellant, this time to the Appellant “*t/a Indy Cabs of Sittingbourne*” at 48 Concord Avenue, Chatham ME5 9TS. Presumably, the Appellant had changed his correspondence address (we do not know). The letter incorrectly referred to a reminder letter having been sent to the Appellant on 2 March 2018 and enquired whether the Appellant wished to continue to operate under his licence. If he did not, then he was to complete the enclosed form by 31 May 2018. The Appellant was advised that after 31

May 2015 a submission would be made to the TC to have the licence terminated. No response was received.

- On 31 May 2018, a reminder letter was sent to the Concord Avenue address requiring a response by 7 June 2018, after which a submission would be made to the TC to have the licence terminated. No response was received.
- On 4 June 2018, the Appellant was sent another continuation checklist to be completed and returned “*at your earliest convenience*”. The checklist was sent to 48 Concord Avenue. No response was received.
- On 2 May 2019, a “*propose to revoke*” letter was sent to “*Unit 6, Chatham, ME5 OBS*” notifying the Appellant that unless he requested a public inquiry by 23 May 2019, his licence would be revoked. No response was received.
- By a letter dated 14 August 2019 and sent to the Concord Avenue address, the Appellant was notified that his licence had been revoked.

The Appeal

5. At the hearing of the appeal, the Appellant failed to attend. When contacted by the Tribunal’s clerk, he stated that he was unable to travel from Kent. We therefore proceeded to determine his appeal in his absence.
6. The Appellant’s grounds of appeal were simply that he had not received any of the correspondence listed above (save for the letter dated 14 August 2019) and had he done so, he would have responded to it as he had held his licence for nearly ten years and he did not want to lose it. The Appellant did not offer any explanation for why the correspondence sent to the Concord Avenue address (which is where he received the letter notifying him of the revocation of the licence) or sent to the other addresses, was not received by him.

Discussion

7. In the ordinary course of events, we would not have had any hesitation in dismissing this appeal as the Appellant has failed to respond to repeated requests for information made by the Office of the Traffic Commissioner (“OTC”) and sent to addresses which the OTC presumably held on file for the Appellant. It follows that it would appear that the Appellant has failed to engage with the OTC for a period of approximately four years. However, we are concerned (and somewhat mystified) by the decision of the OTC to send the crucial “*propose to revoke*” letter dated 2 May 2019 to a postal address which presumably was meant to be delivered to the Appellant at his operating centre. We cannot be satisfied that the address “*Unit 6, Chatham, ME5 OBS*” was sufficient in the circumstances to ensure that delivery to the Appellant was achieved, even if it could be established that the Appellant was likely to receive any post at his operating centre if properly addressed. In the circumstances, and despite the very unimpressive history, we feel impelled to allow the appeal and require a further “*propose to revoke*” letter be sent to the Appellant at the Concord Avenue address as it was at this address that the Appellant received the letter of revocation. We should add that we do not know the actual up to date address of the Appellant or whether it is different to

the Concord Avenue address, as the Appellant has not provided an address on his Notice of Appeal and he has not been required to provide one by the Tribunal staff. Of course, if it is deemed appropriate, the fresh "*propose to revoke*" letter should be sent to other addresses on file for the Appellant to avoid any further assertion that the letter has not been received by him.

A handwritten signature in black ink, appearing to read "Judge Beech". The signature is written in a cursive, flowing style.

Her Honour Judge Beech
13 January 2020