

55 Old Broad Street,
London EC2M 1RX.

Telephone: 01302 249732

Mobile: 07720340586

Email: barren.pell@gbraillfreight.com

Tamzin Cloke,
Committee Secretary,
Access Disputes Committee,
Floor 1 Mimet House,
5a Praed Street,
London,
W2 1NJ.

Date: 23rd March 2023

Dear Tamzin,

Notice of Dispute TTP 2191 Summary

Summary of events:

Network Rail and GB Railfreight (GBRf) had agreed a possession (number P2022/3429981). The possession, in its original publication, is the start of a blockade between Ashton Moss North (clear of the junction) and Marsden (blocking the route over the Pennines via Huddersfield), meaning the only route across the Pennines for GBRf loaded Biomass services is via the Calder Valley. This route runs through Denton Jn & Ashton Moss North Jn and is our core route for GBRf Biomass flows. This agreed possession went through all the appropriate consultation during the 2023 Engineering Access Statement (EAS) development period, and in good time to allow affected parties to consider the impact.

This was then followed by the announcement of industrial action by the RMT for Network Rail and Train Operating Companies on 15th of February 2023.

On the morning of Friday 24th February, Network Rail asked if GBRf would consider a more disruptive footprint in light of the industrial action. The request was to block from Denton Jn to Ashton Moss North (actually blocking the junction) from 03:34 Thursday 16th March to 07:30 Friday 17th March. This footprint now blocked our route to access the line across the Pennines via the Calder Valley.

Because, at the time, there was no confirmation of what routes were available or indeed if the strike was going to go ahead at the time, GBRf declined and advised that if we could run our services, we would be running them via the booked routes. This is because any other diversionary routing would cost GBRf more locomotive and traincrew resources, with no guarantees that GBRf would be successful in procuring these additional resources.

Network Rail did not appear to consider GBRf's position and continued with its formal request later that same day. It felt that, when Network Rail decided to do this, there was no intention of delivering anything that would allow the running of GB Railfreight's trains.

Network Rail followed this with a formal request on Monday 27th February (14 working days before the possession).

GBRf declined the request based on what we had advised just a few hours ago.

Network Rail followed this with a Decision Notice on the 2nd March, just 4 working days after the request and 10 working days before the possession.

On the 8th March, just 4 working days after the Decision Notice and 7 working days before the possession, RMT announced that the industrial action would be cancelled.

As the matter escalated, GBRf suggested an alternative operating option on the 9th March, 6 working days before the possession, that would permit it to run more freight services. This was responded to, by Network Rail, just 1 hour after the suggestion was made and gave the clear impression that there was no hunger to make our services work even though this additional disruption was initiated by Network Rail.

Impact to our service and Customer:

The material impact to GB Railfreight is that, by pressing ahead with this non-agreed or established additional disruption, Network Rail will have cost us X7 (6x Biomass and 1x Cemex) services for the duration of this possession where we have been unable to serve our customer.

The loss of X7 loaded services, has cost GBRf heavily financially, as well as disrupting our customer with loss of almost 15,000 tonnes of fuel (biomass) during a high burn period. The reputational damage GBRf have suffered with the customers (Drax and Cemex) due to short notice cancellations is significant.

This will not be able to be made up as there is no capacity for additional freight paths coupled with no capacity in our resources. It will be a further dent in our contract to deliver annual tonnages (amounting to breaching our contract with our customer).

There has also been a detrimental impact on the relationship with Network Rail following this (and numerous other blocks) whereby we are being backed into a corner and being told by Network Rail what we are doing with our trains. Network Rail have essentially been making decisions impacting our business when they have no right to do so.

Questions:

Why was there not a plan put in place that would have allowed the passage of trains from the outset? There is an unfortunate culture whereby Network Rail tends not to focus on planning blocks with the view to keep vital freight services moving. Given a workable solution was available why did Network Rail not have the competency to see or undertake this option when the possession extension was sought and strike position rolled back?

Why did Network Rail not make any effort to consult with GBRf prior to the formal requests to get our view of it and to potentially put a plan together with Network Rail in reasonable time?

Guidance on our ability to protect our service:

Network Rail starting a formal process of requesting a late notice possession, so close to the actual date of the blocks, has meant there is no way GBRf is able to protect its services via the disputes process.

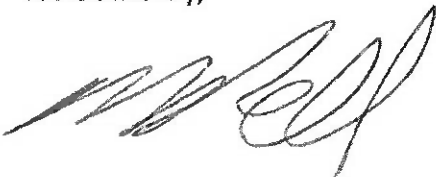
This needs to be addressed as Network Rail, as a whole, is becoming increasingly cavalier in its approach to disruptive blocks. Operators need protection from this approach as it is severely damaging to our customers, our business and reputation.

The timing of the request, the wording of the additional block and the lack of appetite to help us run a service, feels like Network Rail had already made its decision to go with the highly disruptive non-agreed access strategy.

Had this gone through the process of Engineering Access Statement development (EAS) or Late Notice within a reasonable timescale, there would have been time to request and have a hearing arranged via the ADC. How do we enact a dispute hearing for a possession when there is little or no time to formally dispute in accordance with Network Code?

GBRf would like written guidance to develop a formal process that allows operators who object to disruptive blocks with no time to proceed with a dispute via the ADC to have the right to a hearing with the view to either reducing the impact or stopping the blocks altogether.

Yours sincerely,



Darren Pell.

Engineering Access Planning Manager.

