

SECOND ARBITRATION

IN THE MATTER OF THE ARBITRATION ACT 1996

AND IN THE MATTER OF AN ARBITRATION

B E T W E E N:

GREAT NORTH EASTERN RAILWAY LIMITED

Claimant

and

RAILTRACK PLC

Respondent

FOURTH INTERIM AWARD

WHEREAS

- (A) On 5 February 2002 I published my First Interim Award in this Arbitration. I set out the status of the parties and my appointment in that First Interim Award. On 19

February 2002 I published my Second Interim Award in this Arbitration. On 3 April 2002 I published my Third Interim Award in this Arbitration.

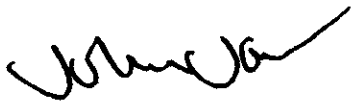
- (B) The place of arbitration is London.
- (C) The parties have exchanged written submissions in the form of Railtrack's objection to GNER's 11th Suspension Notice dated 19 April 2002 and GNER's submission in respect of its 11th Suspension Notice dated 3 May 2002. The only witness statement relied on in this hearing was that of Richard McClean dated 8 January 2002.
- (D) A hearing was held at Citypoint, Ropemaker Street, London on 13 May 2002. In addition to the documents previously before me, one further bundle of documents was placed before me. I received a written submission from Junior Counsel for Railtrack during the course of the hearing. Both parties were represented by Junior Counsel and solicitors.
- (E) I have read the evidence, studied the documents, listened to the arguments and deliberated on the issues which I am required to determine.

NOW THEREFORE I, John Manners Jarvis, HEREBY MAKE AND PUBLISH this my Fourth Interim Award:

- (1) For the reasons which are delivered with and form part of this Fourth Interim Award I declare:
 - (A) That on the true construction of the provisions of the Track Access Agreement and by reason of the events which have occurred, the 11th Suspension Notice dated 5 April 2002 served by the Claimant on the Respondent is valid and effective and the Claimant is not precluded from relying on it.
 - (B) This is a Fourth Interim Award which is subject only to the provisions of the Arbitration Act. At the request of the parties the remaining issues in this Arbitration

are reserved to a further hearing and I reserve for myself the power to make a further Award or Awards in relation to costs (including the costs of this Award) and all other matters which I may in future may be required to decide pursuant to my appointment.

GIVEN UNDER MY HAND 14 MAY 2002



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John Jarvis QC