



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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Phone:

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DOCKET NUMBER 1304-C-233-T
(Complaint No. TX04-2213-27)

RE: IN THE MATTER OF THE CITATION OF
HARRY'S TAXI, INC.

Final Decision

July 30, 2013

I. INTRODUCTION

A. Background

On April 26, 2013, pursuant to Connecticut General Statutes Section 13b-97, as amended, the Department of Transportation (hereinafter "department") issued a Citation Notice to Harry's Taxi, Inc., 158 Montauk Avenue, New London, Connecticut (hereinafter "respondent"), holder of Taxicab Certificate Number 75. The Citation Notice ordered the respondent to appear before the department to answer allegations made therein.

The respondent was noticed to show cause as to why Certificate Number 75 should not be suspended, revoked, or a civil penalty imposed for violation of its taxicab certificate issued in accordance with Connecticut General Statutes Section 13b-97.

More specifically, the respondent is alleged to have violated the following Regulations of Connecticut State Agencies as follows:

Vehicle bearing marker plate T2205T:

- Section 13b-96-32(b) – failing to post the driver's ID
- Section 13b-96-37(e) – failing to post rates
- Section 13b-96-41(b)(5) – failing to have operable air conditioning system
- Section 13b-96-44(c) – failing to have an operating exterior dome light
- Section 13b-96-49(a) – failing to inspect vehicle regularly
- Failure to have an odometer

Vehicle bearing marker plate T234T:

- Section 13b-96-27(4) – permitting or authorizing a person to operate a taxicab who is not properly licensed in accordance with General Statutes Section 14-44 (driver had suspended license)
- Section 13b-96-32(b) – failing to post the driver's ID
- Section 13b-96-41(b)(5) – failing to have operable air conditioning system

The citation was served upon the respondent by first class and certified mail and recited the department's reasons for issuing same.

B. Hearing

Pursuant to Section 13b-97 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on July 23, 2013.

Notice of the citation and of the hearing to be held thereon was given to the respondent and to such other parties as required by General Statutes Section 13b-103.

Pursuant to General Statutes Section 13b-17, the Commissioner of Transportation designated a hearing officer to conduct the hearing on this matter.

C. Appearances

John Knowles, president and owner of Harry's Taxi, Inc. appeared on behalf of the company.

Eugene Morris, Public Transit Inspector with the Regulatory and Compliance Unit of the Department of Transportation, presented the evidence on behalf of the agency.

II. FINDINGS OF FACT

1. Eugene Morris is a Transportation Public Transit Inspector with the Department of Transportation.
2. On May 30, 2012, during a joint taxicab spot inspection that Morris was conducting with the Department of Motor Vehicles, he inspected two taxicabs, bearing marker plates numbers T2205T and T234T.
3. The vehicles in question were registered to Harry's Taxi, Inc.
4. Harry's Taxi, Inc. is holder of taxicab Certificate Number 75 and is authorized to operate motor vehicles in taxicab service within and to and from Groton, New London, Stonington, and Waterford.
5. Morris found both vehicles in question missing the driver identification card required by Section 13b-96-32(b) of the Regulations of Connecticut State Agencies.
6. Morris found that the air conditioner systems required by Section 13b-96-41(b)(5) of the Regulations of Connecticut State Agencies were non-functioning in both vehicles.
7. Morris found that the driver of the vehicle bearing marker plate number T234T did not have a valid operator's license required by Section 13b-96-27(4) of the Regulations of Connecticut State Agencies because the driver's operator's license was suspended.
8. Morris found that the taxicab bearing marker plate T2205T had no rates posted on the rear left passenger window of the vehicle as required by Section 13b-96-37 of the Regulations of Connecticut State Agencies.

9. Morris found that on the vehicle bearing marker plate T2205T the dome light, required by Section 13b-96-44(c) of the Regulations of Connecticut State Agencies, was non-functioning.
10. The respondent has corrected the violations and has since either replaced or repaired the vehicles and placed them back into service.
11. John Knowles has been the owner of the respondent company for several years.
12. The respondent entered into a Stipulated Agreement and paid a civil penalty in the amount of \$1000 for a prior citation action within two years of the instant citation.

III. DISCUSSION

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in taxicab service in the State of Connecticut accordance with Connecticut General Statutes Section 13b-96, as amended.

Pursuant to Connecticut General Statutes Section 13b-97 the department may amend, or for sufficient cause suspend or revoke any such permit. Further, the department may impose a civil penalty on any person who violates any provision of the governing chapter or any regulation adopted under Section 13b-96, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one hundred dollars per day for each violation.

At the hearing, in the respondent's defense, the owner of the company, John Knowles, testified that even though he has one part-time employee who is dedicated to checking their drivers' licenses for suspension, she has trouble identifying any suspensions because the Department of Motor Vehicles does not provide that information in a timely fashion. Knowles stated that the mechanical problems with the cars in question were ongoing and had happened in the past. He stated that the vehicles are inspected every 10 days. The respondent's mechanic had tried to fix the defect several times. Knowles further stated that he thought that the rate cards would interfere with the drivers' vision if posted on the back windows because he thought they were not see-through.

As for the driver's license suspension, the evidence presented to minimize the fact that the respondent's driver's license was suspended is not excuse enough to forgive the violation. Knowles testified that the Department of Motor Vehicles does not provide suspension information in a timely manner. While Knowles testified that he hired someone on a part-time basis to check for suspensions, the record is silent on any follow up by the respondent with the Department of Motor Vehicles on something so important.

As for the mechanical issues, if there are ongoing problems with mechanical issues, those should be resolved and if there are inspections every 10 days and those mechanical issues are not resolved, then it is reasonable to expect the vehicle to be taken off the road until the mechanical issues were resolved. No evidence of any such inspections was entered into the record to support Knowles' testimony.

Lastly, Knowles testified that there were rate cards on the vehicles that Morris inspected but on the rear window, not the side passenger window. Morris testified that he checked the vehicles and no rate cards were visible on any windows at the inspection. The invoice submitted into evidence for new rate cards does not prove that there was a rate card affixed to the vehicles during the spot inspection. Even if the rate card was on the back window, it was not in the proper position to easily enable a passenger to see it. The respondent's arguments are unpersuasive on the issues presented.

IV. CONCLUSIONS OF LAW

The evidence in this matter shows that the respondent is holder of Certificate Number 75 and that the two vehicles in question bearing marker plates T2205T and T234T are registered to the respondent. The evidence further shows that the respondent violated the terms of Certificate Number 75 by failing to adhere to its requirements.

More specifically, the respondent is in violation of its Certificate for allowing its taxicab bearing marker plate T2205T to be in taxicab operation in violation of Regulations of Connecticut State Agencies Sections 13b-96-37(e) for operating without posted rates; 13b-96-41(b)(5) for operating without an operable air conditioning system; 13b-96-44(c) for operating without an operating exterior dome light; and 13b-96-49(a) for failing to inspect said vehicles.

As for the respondent's taxicab bearing marker plate T234T, the respondent is in violation of its Certificate for allowing its taxicab bearing marker plate T234T to be in taxicab operation in violation of Regulations of Connecticut State Agencies Sections 13b-96(4) for permitting or authorizing a person to operate a taxicab who is not properly licensed in accordance with General Statutes Section 14-44 (driver had suspended license); 13b-96-32(b) for failing to post the driver's ID; and 13b-96-41(b)(5) for failing to have operable air conditioning system.

With regard to the odometer violation, there was no testimony or mention of the lack of an odometer in the vehicle that was inspected. Although Department's Exhibit No. 4 (Taxi Compliance Inspection Report) is noted with the comment "No odometer," the investigative report is silent on that issue and there was no testimony regarding the failure to have an odometer in the car. Accordingly, that notation has not been considered in this matter.

In light of the fact that the respondent has a prior violation on its record within two years of the instant citation, a civil penalty will be assessed at \$100 per day for ten days per car (\$1000 per car) for one of violation (per car) of Certificate Number 75. The total civil penalty assessed upon the respondent is Two Thousand Dollars (\$2000), in accordance with Section 13b-97(c) of the General Statutes.

V. ORDER


Based on the above, the respondent is hereby ordered to pay to the Department of Transportation a civil penalty in the amount of Two Thousand Dollars (\$2000), by certified check, bank check or money order made payable to the "Treasurer, State of Connecticut," within sixty (60) days from the date of this final decision.

The respondent is hereby placed on probation for a one (1) year period to commence on the date of the final decision. Probation means that the respondent is barred from making application for additional vehicles during the period of probation. In addition, any further violations of a similar nature may result in additional civil penalties or suspension of Permit Number 75.

Failure to comply with any provision of this order shall result in revocation without further proceeding. This final decision constitutes notice in accordance with General Statutes Section 4-182.

Dated at Newington, Connecticut on this the 30th day of July 2013.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Laila A. Mandour
Staff Attorney, III
Administrative Law Unit
Bureau of Finance and Administration