



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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Phone:

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DOCKET NUMBER 1307-C-291-L

RE: IN THE MATTER OF THE CITATION OF HY'S LIVERY SERVICE, INC.

Final Decision

November 22, 2013

I. INTRODUCTION

A. Background

By citation dated September 13, 2013, by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, Hy's Livery Service, Inc. (hereinafter "respondent"), holder of Livery Permit Number 1594, was ordered to come before the department to answer allegations made therein.

Pursuant to said citation, the respondent was directed to appear at the Newington office of the Department of Transportation to show cause why Permit Number 1594, for the operation of livery service, should not be suspended or revoked or a civil penalty imposed for violation of its permit, issued in accordance with Connecticut General Statutes Section 13b-103.

More specifically, the respondent is alleged to have violated its permit by failing to carry its registration certificate in its motor vehicle, in accordance with Connecticut General Statutes Section 14-13.

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-103 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on November 19, 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.

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

C. Appearances

Hy's Livery Service, Inc. appeared, without counsel, through Robert Levine, owner of the company.

Eugene Morris, Transportation Public Transit Inspector, with the Regulatory and Compliance Unit of the Department of Transportation presented the department's evidence.

II. FINDINGS OF FACT

1. The respondent is holder of Livery Permit Number 1594 and is authorized to operate vehicles in livery service to all points in Connecticut from a headquarters in West Haven, Connecticut.
2. On June 1, 2013, the Department of Transportation and the Department of Motor Vehicles conducted a combined enforcement venture in Stamford for the inspection of livery vehicles.

3. Dennis King, manager of the Regulatory and Compliance Unit of the department, was present at the enforcement venture on June 1, 2013.
4. A vehicle bearing marker plate L8052L, registered to the respondent, was stopped for inspection and the driver was asked to produce the vehicle registration.
5. The respondent's driver could not find the registration in the vehicle and was unable to provide the registration to department officials.
6. The respondent's driver was issued a complaint ticket for failing to carry a registration certificate in the motor vehicle, in accordance with Section 14-13 of the Connecticut General Statutes.
7. The respondent's driver appeared in court on the complaint ticket on June 21, 2013 and then again on June 28, 2013. The driver provided the Court with proof of registration showing the vehicle in question was duly registered on June 1, 2013.; the prosecutor declined to pursue the complaint and entered a nolle in the case and the respondent believed the matter was disposed of.
8. The respondent reprimanded its driver for the transgression.
9. On July 23, 2013, the department sent the respondent a letter pursuant to Connecticut General Statutes Section 13b-103(c) providing notice of an alleged violation and advising that an opportunity for hearing would be provided should allegations be sustained.
10. Prior to the imposition of a civil penalty under Connecticut General Statutes Section 13b-103(c) the department shall provide notice to the respondent no later than fifteen business days after receipt of information concerning an alleged violation and shall provide an opportunity for a hearing.
11. The respondent has not been cited for any livery violation in over 10 years.

III. DISCUSSION AND CONCLUSIONS OF LAW

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in livery service in the State of Connecticut accordance with Connecticut General Statutes Section 13b-102, as amended.

Pursuant to Connecticut General Statutes Section 13b-103 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-102 through 13b-109, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one thousand dollars per day for each violation.

Robert Levine, president of the respondent company testified that the vehicle in question was registered on the day that it was stopped for inspection. He testified that the company has an established policy for the drivers to check the vehicles they use and to keep the paperwork in the vehicle to ensure that all documents are in the car.

The driver, Keith Trapasso, testified that when he picked up the vehicle and checked for the documents, he saw the envelope that contained the documents and assumed that the registration

was included, but did not actually take out the registration upon beginning the job, in violation of the company's policy. He was reprimanded by his employer.

Prior to imposition of a civil penalty, the respondent must be provided with notice of the allegations no later than 15 business days. The respondent did not receive notice of the allegations within 15 business days of the receipt of information concerning the alleged violation. Dennis King was present at the enforcement venture and had knowledge of the complaint. Accordingly, the department cannot issue a civil penalty in the instant matter.

Given that the notice of the allegation was not provided to the respondent within the statutory time limits, as required by C.G.S. Section 13b-103(c), and that the violation alleged in this matter did not pose an imminent threat to public safety, the matter will be dismissed.

IV. ORDER

Based on the foregoing, the citation of Hy's Livery Service, Inc. is hereby dismissed.

Dated at Newington, Connecticut on this 22nd day of November, 2013.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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