

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF WILLIAM R. DIXON,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 17-1995-TR-CVF

ENTRY

Entered in the Journal on February 28, 2018

I. SUMMARY

{¶ 1} The Commission grants Staff's motion for default judgment against William R. Dixon for failure to appear at a hearing concerning a violation of the Commission's transportation rules.

II. DISCUSSION

{¶ 2} R.C. 4923.04 provides that the Commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} On July 21, 2017, an inspector inspected a commercial motor vehicle operated by Lapham Hickey Steel Co. and driven by William R. Dixon (Respondent). Respondent was driving the vehicle within the state of Ohio. The inspector discovered a violation of 49 C.F.R. 391.41(a), which is operating a commercial motor vehicle without possessing a valid medical certificate.

{¶ 4} Staff served Respondent with a notice of preliminary determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12. The NPD assessed Respondent a \$100 civil forfeiture for the violation.

{¶ 5} On September 18, 2017, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on November 21, 2017. During the prehearing conference, Respondent and Staff were unable to reach a settlement.

{¶ 7} By Entry dated November 30, 2017, the attorney examiner set this matter for a hearing on January 17, 2018. A copy of the Entry scheduling the hearing was served upon Respondent by regular mail and a service notice was filed in the docket.

{¶ 8} At the hearing, Staff presented, as exhibits, the Driver/Vehicle Examination Report (Staff Ex. 1) and the NPD issued to Respondent (Staff Ex. 2). Respondent did not appear at the hearing or present any evidence why he should not be held liable for the forfeiture proposed in this case (Tr. at 4). At the conclusion of the hearing, Staff moved for a default judgment against Respondent for the proposed forfeiture of \$100 (Tr. at 5).

{¶ 9} Ohio Adm.Code 4901:2-7-14(E) provides that a Respondent who has requested an administrative hearing and fails to participate in the hearing proceeding shall be in default. Further, a Respondent in default shall be deemed to have admitted the occurrence of the alleged violation and waived all further right to contest liability for the proposed forfeiture described in the notice.

{¶ 10} In view of Respondent's failure to participate in the hearing, the Commission finds that, in accordance with Ohio Adm.Code 4901:2-7-14, Staff's motion for default judgment should be granted. Therefore, the Commission finds that Respondent violated 49 C.F.R. 391.41(a) and that the recommended civil forfeiture of \$100 should be paid within 60 days.

{¶ 11} Pursuant to R.C. 4923.99, Respondent is liable to the State of Ohio for payment of the assessed civil forfeiture of \$100. Ohio Adm.Code 4901:2-7-22 provides that payment of such forfeitures be made by certified check or money order made payable to: "Treasurer,

State of Ohio" and shall be mailed or delivered to: PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Case No. 17-1782-TR-CVF and inspection number OH320730248D should appear on the face of the check or money order. Respondent shall have 60 days from the date of this Entry to pay the assessed forfeiture of \$100.

III. ORDER


{¶ 12} It is, therefore,

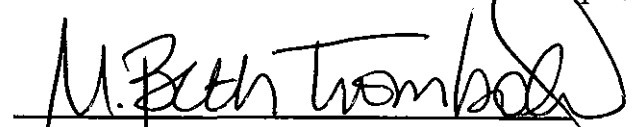
{¶ 13} ORDERED, That Staff's motion for default judgment be granted. It is, further,

{¶ 14} ORDERED, That Respondent pay the civil forfeiture of \$100 within 60 days to the state of Ohio as set forth in paragraphs 10 and 11. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon each party of record.

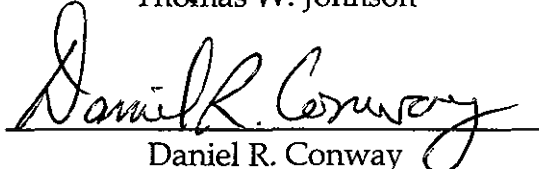
THE PUBLIC UTILITIES COMMISSION OF OHIO


Asim Z. Haque, Chairman

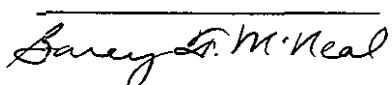

M. Beth Trombold


Thomas W. Johnson


Lawrence K. Friedeman


Daniel R. Conway

AS/vrm
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FEB 28 2018


Barcy F. McNeal
Secretary