

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF RODNEY DEMMITT
JR., NOTICE OF APPARENT VIOLATION
AND INTENT TO ASSESS FORFEITURE.

CASE NO. 17-2174-TR-CVF
(OH3235004821C)

ENTRY

Entered in the Journal on September 5, 2018

{¶ 1} On October 23, 2017, Mr. Rodney Demmitt (Respondent) filed a request for an administrative hearing. However, Ohio Adm.Code 4901:2-7-13 states that a request for administrative hearing cannot be made until after receipt of a Notice of Preliminary Determination (NPD) under Ohio Adm.Code 4901:2-7-12.

{¶ 2} Thereafter, on January 9, 2018, Mr. Demmitt was served with an NPD alleging a violation of the Commission's transportation regulations.

{¶ 3} On May 7, 2018, Staff filed a request for administrative hearing and motion for waiver of the requirements to request an administrative hearing. Staff explained that Mr. Demmitt prematurely requested an administrative hearing and his request was referred to Staff to schedule and conduct a settlement conference under Ohio Adm.Code 4901:2-7-10. According to Staff, on February 26, 2018, Mr. Demmitt contacted Staff by telephone, restating his original request for an administrative hearing before the Commission. Staff asserted that Mr. Demmitt has essentially fulfilled the requirements of Ohio Adm.Code 4901:2-7-13, although not in the proper order. Accordingly, Staff requested a waiver of the requirements of Ohio Adm.Code 4901:2-7-13 and that his case be set for hearing. The attorney examiner granted the waiver and a prehearing was set for June 29, 2018.

{¶ 4} A prehearing settlement conference was held on June 29, 2018; however, the parties were unable to settle this matter.

{¶ 5} On August 21, 2018, the attorney examiner scheduled a hearing date of October 18, 2018, at 10:00 a.m.

{¶ 6} The attorney examiner finds that due to scheduling conflicts the hearing time should be rescheduled. Accordingly, the evidentiary hearing should begin on October 18, 2018, at 11:00 a.m., at the Commission's offices, 180 East Broad Street, Columbus 43215, in Hearing Room 11C on the 11th Floor.

{¶ 7} Ohio Adm.Code 4901:2-7-14(E) provides that a respondent who has requested an administrative hearing and fails to appear for the hearing shall be in default. The rule additionally states that a respondent in default shall be deemed to have admitted the occurrence of the violation and waived all further right to contest liability for the forfeiture proposed in the NPD.

{¶ 8} At the hearing, Staff must prove, by a preponderance of the evidence, the occurrence of a violation, pursuant to Ohio Adm.Code 4901:2-7-20(A).

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That a hearing in this case be rescheduled in accordance with Paragraph 6. It is, further,

{¶ 11} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Stacie Cathcart

By: Stacie E. Cathcart
Attorney Examiner

JRJ/sc

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Case No(s). 17-2174-TR-CVF

Summary: Attorney Examiner Entry scheduling hearing for 10/18/2018 in accordance with Paragraph 6 - electronically filed by Sandra Coffey on behalf of Stacie Cathcart, Attorney Examiner, Public Utilities Commission of Ohio