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PUCO

Dear Mr. Lynn,

On the first inspection report, #OH0656007216 conducted 6/11/08 starting at 11:28 am and ending 12:05pm, there were two out of service violations. I do not dispute the offenses. However, I do maintain that inspecting Officer Stotzer gave me permission to complete my load before all repairs were made. Officer Stotzer told me that if I aired up the flat tire I could continue on to my destination, unload the load and make repairs before I loaded the trailer again. On page 23 lines 4 thru 12, he told me that if I aired up the tire I could move the truck. On page 28 lines 8 thru 11, Officer Stotzer states he does not remember the driver airing up the tire, yet on page 28 lines 22 thru 29, line 1, he states that he could have told other officers that he did see driver air up the tire. To prove that the driver aired up the tire, the tire had 10 lbs. of air at this inspection site, but had 42 lbs. at the second inspection site as per report #OH3256005567. Clearly this indicates the driver aired up the tire at the first inspection site.

Office Stotzer does not want to admit seeing me air up the tire. Why?

Another point is the out of service sticker. Code #396.9 (c) (1) of the federal motor carrier safety regulations states an out of service sticker shall be used to mark vehicles out of service. This was not done. Office Stotzer says he does not have any stickers but according to Officer Hostetler on page 84 lines 1 thru 25, officers are issued stickers at the post, see line 12. Officer Stotzer's reason for not placing a sticker is not credible. The reason he did not place the sticker was because he did not place truck out of service.

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On page 118 line 12, Trooper Wolfe states he first sees the truck from IR77. He then states on page 119 lines 8 thru 13 that he sees the tarp that is on the right side of the truck only, flapping in the wind? He can not see the tarp on the right side of the truck from the left side of the truck. If probable cause is an issue in this stop, does this not pose a problem for Trooper Wolfe?

On Trooper Wolfe's report #OH841006357 violation # 392.9(a) (1) cargo securement, second stack has only one of two required tie downs. On page 131 lines 17 thru 25, he states he sees cable on second bundle. On page 136 lines 5 thru 23, testimony indicates load is secured. Line 21, I ask if this is legal? Line 23, Trooper Wolfe states it would be.

Another point, Trooper Wolfe placed out of service sticker on the truck. When asked if he made the statement "this will eliminate confusion", he states he does not remember. Page 137 lines 10 thru 20 again nothing remembered that may pose a doubt in case.

On page 143 lines 11 thru 25, Trooper Wolfe states US DOT numbers are not required on this load. This load is the same kind of load as the one Officer Hostetler inspected in earlier statement. Page 144 lines 12 thru 16, again Trooper Wolfe states US DOT numbers not required.

Mr. Lynn, my contention is that I had two out of service violations. I did what Officer Stotzer told me that I was allowed to do. Any other out of service violations or inspections prior to me unloading my load, I feel should be dismissed as I was given permission to continue on. Any other time that I was placed out of service, I made all the repairs at the location when I was told. Trooper Wolfe stated page 123 lines 10 thru 21 that while he was filling out the report, I was making repairs and being cooperative which I always do. It is completely out of character for me to violate out of service orders. I have been a driver for over 26 years. I know the penalty is so severe that I would not do so.

If there was any misunderstanding in this circumstance, it was not on my part. I know what I was told to do.

Thank you.
Michael D. Bolen

