

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
KENNETH CORNWELL, NOTICE OF
APPARENT VIOLATION AND INTENT TO
ASSESS FORFEITURE.

CASE NO. 16-2115-TR-CVF
(OH1366002841D)

FINDING AND ORDER

Entered in the Journal on January 4, 2017

I. SUMMARY

{¶ 1} The Commission finds reasonable and approves the settlement agreement regarding a violation of the Commission's transportation rules.

II. DISCUSSION

A. *Applicable Law*

{¶ 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 against any person who violates the safety rules adopted by the Commission.

B. *Procedural History*

{¶ 3} On July 7, 2016, a commercial motor vehicle (CMV) operated by Ryder Truck Rental, Inc. and driven by Kenneth Cornwell (Respondent) was inspected within the state of Ohio. The inspection resulted in the discovery of a violation of 49 C.F.R. 392.16 (Failing to use seat belt while operating a CMV), \$100.

{¶ 4} Respondent was served with a Notice of Preliminary Determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, on September 20, 2016. The NPD assessed Respondent a civil forfeiture of \$100 for the violation of 49 C.F.R. 392.16.

{¶ 5} On October 24, 2016, Respondent requested an administrative hearing, pursuant to Ohio Adm.Code 4901:2-7-13.

{¶ 6} A prehearing conference was conducted on November 14, 2016.

{¶ 7} On December 9, 2016, Staff and Respondent filed a settlement agreement which, in the parties' opinion, resolves the issue raised in the NPD. The following is a summary of the conditions agreed to by the parties and is not intended to replace or supersede the settlement agreement.

- (a) Respondent admits to the violation listed above and in the NPD and agrees that the violation may be included in his history of violations, insofar as it may be relevant for purposes of determining future penalty actions.
- (b) Respondent shall pay the \$100 civil forfeiture in four consecutive monthly installments of \$25 per installment commencing 30 days after the Commission's order approving this settlement agreement. The payments shall be made payable to "Treasurer State of Ohio," and they shall be mailed to PUCO, Attn: CF Processing, 180 E. Broad St., 4th floor, Columbus, OH 43215-3793. In order to assure proper credit, Case No. 16-2115-TR-CVF and inspection number OH1366002841D should appear on the face of each check or money order.

- (c) This settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting this settlement agreement shall be considered the effective date of the settlement agreement.
- (d) This settlement agreement is intended to resolve only factual or legal issues raised in this case. It is not intended to have any effect whatsoever in any other case or proceeding.

C. Commission Conclusion

{¶ 8} The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement shall be approved and adopted in its entirety.

III. ORDER

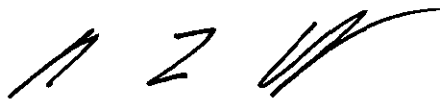
{¶ 9} It is, therefore,

{¶ 10} ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

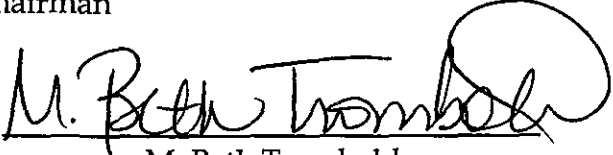
{¶ 11} ORDERED, That Respondent pay a civil forfeiture of \$100 in accordance with the settlement agreement. Payment shall be made by check or money order payable to "Treasurer, State of Ohio," and mailed to PUCO, Attn: CF Processing, 180 East Broad Street, 4th Floor, Columbus, Ohio 43215-3793. In order to assure proper credit, Respondent is directed to write Case No. 16-2115-TR-CVF and inspection number OH1366002841D on the face of the check or money order. It is, further,

{¶ 12} ORDERED, That a copy of this Finding and Order be served upon Respondent and all other interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Asim Z. Haque, Chairman

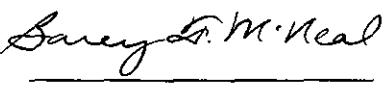

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JAN 04 2017


Barcy F. McNeal
Secretary