

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF RAYMOND  
RICHMOND, NOTICE OF APPARENT  
VIOLATION AND INTENT TO ASSESS  
FORFEITURE.

CASE NO. 19-458-TR-CVF  
(OH9444300167D)

## ENTRY

Entered in the Journal on December 4, 2019

### I. SUMMARY

{¶ 1} The Commission grants Staff's motion for default judgment against Raymond Richmond 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 October 14, 2019, Inspector Alvin Holscher inspected a commercial motor vehicle (CMV) operated by Raymond Richmond (Respondent). Respondent was driving the vehicle within the state of Ohio. Inspector Holscher discovered a violation of 49 C.F.R. 383.23(a)(2) (operating a CMV without a commercial driver's license, specifically not wearing corrective lenses).

{¶ 4} Staff served Respondent with a notice of preliminary determination (NPD), pursuant to Ohio Adm.Code 4901:2-7-12, regarding the driver violation. This NPD assessed Respondent a \$250 civil forfeiture for the driver violation.

{¶ 5} On February 22, 2019, Respondent requested an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 6} By Entry dated March 12, 2019, the attorney examiner scheduled a prehearing conference in this matter on April 9, 2019. During the conference, the parties were unable to settle the matter.

{¶ 7} By Entry dated May 6, 2019, the attorney examiner scheduled a hearing in this matter for June 25, 2019.

{¶ 8} By Entry dated June 5, 2019, the attorney examiner rescheduled the hearing to July 19, 2019.

{¶ 9} On July 9, 2019, Staff filed a motion for continuance. As a result, by Entry dated July 15, 2019, the attorney examiner rescheduled the hearing to August 13, 2019. A copy of the Entry scheduling the hearing was served upon Respondent by regular mail and a service notice was filed in the docket.

{¶ 10} At the hearing, Staff presented, as exhibits, the Driver/Vehicle Examination Report (Staff Ex. 1); a series of photographs taken by Inspector Holscher during the inspection (Staff Ex. 2); a notice of apparent violation (NAV) that Staff issued to Respondent for the driver violation (Staff. Ex. 3); a second NAV that Staff issued to Respondent (Staff Ex. 4); and the NPD that Staff issued to Respondent for the driver violation (Staff Ex. 5). Staff also presented the testimony of Inspector Holscher in support of the violation and Rod Moser in support of the proposed forfeiture of \$250 (Tr. at 12-15; 17-21). Finally, Staff moved for a default judgment against Respondent for the proposed forfeiture of \$250 (Tr. at 21). Respondent did not appear at the hearing or present any evidence as to why he should not be held liable for the forfeiture proposed in this case (Tr. at 6).

{¶ 11} 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. The rule further 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 to the state for the forfeiture described in the notice.

{¶ 12} Upon review of the evidence presented at the hearing, we find Inspector's Holscher's testimony persuasive in that Respondent was required to wear corrective lenses pursuant to his CDL and he failed to wear these lenses while operating a CMV, in violation 49 C.F.R. 383.23(a)(2) (Tr. at 12-13). Furthermore, 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. 383.23(a)(2) and that the recommended civil forfeiture of \$250 should be paid within 60 days.

{¶ 13} Pursuant to R.C. 4923.99, Respondent is liable to the State of Ohio for payment of the assessed civil forfeiture of \$250. 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. 19-458-TR-CVF and inspection number OH9444300167D 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 \$250.

### III. ORDER

{¶ 14} It is, therefore,

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

{¶ 16} ORDERED, That Respondent pay the civil forfeiture of \$250 within 60 days to the state of Ohio as set forth in paragraph 12. It is, further,

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

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

AS/kck

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Summary: Entry that the Commission grants Staff's motion for default judgment against Raymond Richmond for failure to appear at a hearing concerning a violation of the Commission's transportation rules. electronically filed by Docketing Staff on behalf of Docketing