

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF ATHEER AL-DHAHI,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 21-570-TR-CVF
(OH3223004221D)

ENTRY

Entered in the Journal on December 15, 2021

I. SUMMARY

{¶ 1} The Commission dismisses the case at Staff's request and directs Staff to refund the \$500 civil forfeiture to Respondent.

II. DISCUSSION

{¶ 2} Staff served a notice of apparent violation and intent to assess forfeiture upon Atheer Al-Dhahi (Respondent), alleging a violation of the Commission's transportation regulations.

{¶ 3} On May 11, 2021, Respondent filed correspondence seeking to "reopen" his case. In this filing, Respondent describes that he did not know that his license was suspended and that, due to a language barrier, he misunderstood the consequence of paying the forfeiture.

{¶ 4} On May 24, 2021, Staff filed a response to Respondent's case reopening request. Staff noted that, after being served with a notice of intent to assess a forfeiture stemming from a violation of the Commission's transportation regulations as a result of a vehicle inspection that occurred on March 23, 2021, Respondent paid Staff the assessed forfeiture amount of \$500 on April 8, 2021. Consequently, Staff requested that Respondent's request to reopen the case be denied, or Respondent should be required to show cause why the case should proceed.

{¶ 5} On October 6, 2021, the attorney examiner issued an Entry advising that Respondent had until October 26, 2021, to file a response to Staff's correspondence in opposition to reopening the case.

{¶ 6} On October 22, 2021, counsel for the Respondent filed a response on behalf of Respondent, noting that the Respondent was cited in Ohio for driving a commercial motor vehicle while his commercial driver's license (CDL) was suspended, that the underlying citation assessed in Virginia that led to this suspension was cancelled by the Virginia Department of Motor Vehicles, that the Respondent did not comprehend the consequences of paying the assessed forfeiture, and that the Respondent is the only means of support for his family.

{¶ 7} On November 22, 2021, Respondent filed notice of the hearing decision by the Virginia Department of Motor Vehicles cancelling the underlying citation.

{¶ 8} On November 29, 2021, the attorney examiner granted Respondent's request to reopen the case. The attorney examiner recognized the request as a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13 and scheduled a prehearing teleconference to be held on December 10, 2021.

{¶ 9} On December 9, 2021, Staff filed a motion to dismiss and memorandum in support. As a result of this filing, the prehearing conference was not held.

{¶ 10} In the memorandum, Staff states that, after further review and investigation with the Ohio State Highway Patrol (Patrol), Staff and the Patrol have agreed that further prosecution of the violations is unwarranted, that the alleged violation should be removed from Respondent's history of violations, and that Staff should be directed to refund the forfeiture amount paid by Respondent in this matter. Staff notes that, on March 26, 2021, Staff served Respondent with a notice of apparent violation and intent to assess forfeiture, with 49 C.F.R. 383.51(A), driving a commercial motor vehicle with a suspended CDL, being the violation listed on the notice. Staff further notes that the Respondent's CDL was listed as suspended due to an Order of Suspension in Virginia. As evidenced by Respondent's November 22, 2021 filing consisting of the hearing decision by the Virginia Department of Motor Vehicles, Staff asserts that the underlying reason for the notice of apparent violation and intent to assess forfeiture sent by Staff was canceled; therefore, no reason exists to

continue the administrative hearing process. Consequently, the parties request that the Commission dismiss the case, order that the violation be removed from the Respondent's history of violations, and direct Staff to refund to the Respondent the full forfeiture amount of \$500, which Respondent paid to the Commission on April 8, 2021.

{¶ 11} Given the factors presented in Staff's memorandum in support, the Commission finds that the motion to dismiss should be granted, and the alleged violation should be removed from the Respondent's history of violations. Furthermore, the Commission directs Staff to refund to Respondent the full forfeiture amount of \$500.

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That Staff's motion to dismiss be granted and the violation be removed from Respondent's history of violations. It is, further,

{¶ 14} ORDERED, That Staff refund Respondent in the amount of \$500. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MJS/mef

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in

Case No(s). 21-0570-TR-CVF

Summary: Entry dismissing the case at Staff's request and directs Staff to refund the \$500 civil forfeiture to Respondent electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio