

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF STEPHEN V. TOWETT,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 21-565-TR-CVF
(OH3246014101D)

IN THE MATTER OF STEPHEN V. TOWETT,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 21-566-TR-CVF
(OH1721002050D)

ENTRY

Entered in the Journal on October 19, 2022

I. SUMMARY

{¶ 1} The Commission grants Staff's motion for default judgment against Stephen Towett.

II. DISCUSSION

{¶ 2} On March 26, 2021, Staff served two notices of preliminary determination upon Stephen Towett (Respondent) in accordance with Ohio Adm.Code 4901:2-7-07, alleging separate violations of the Commission's transportation regulations. In Case Number 21-565-TR-CVF, Staff asserted the violation of 29 C.F.R. 395.8K2 (Driver failing to retain previous seven days of duty status records). In Case Number 21-566-TR-CVF, Staff asserted the violation of Code 2-5-07D (Driving after being declared out-of-service for hours or service violation).

{¶ 3} On May 10, 2021, Respondent filed a request for an administrative hearing in both cases, as permitted by Ohio Adm.Code 4901:2-7-13.

{¶ 4} On January 12, 2022, the attorney examiner scheduled a prehearing settlement conference in these matters for February 23, 2022. The parties were unable to settle the matters.

{¶ 5} On May 6, 2022, the attorney examiner consolidated these cases and scheduled an evidentiary hearing for August 3, 2022.

{¶ 6} At the hearing on August 3, 2022, Respondent did not appear at the hearing or present any evidence as to why it should not be held liable for the violations (Tr. at 3-4). In response, Staff moved for a default judgment against Respondent (Tr. at 4).

{¶ 7} Ohio Adm.Code 4901:2-7-14€ 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 committed the occurrence of the violation and waived all further right to contest liability to the state for the forfeiture described in the notice.

{¶ 8} The Commission finds Staff's motion for default judgment to be reasonable. Respondent did not attend the hearing on August 3, 2022, and did not respond to Staff's motion for default judgment presented at hearing. Therefore, Staff's motion for default judgment should be granted.

III. ORDER

{¶ 9} It is, therefore,

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

{¶ 11} 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

JMD/IMM/dmh

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in

Case No(s). 21-0565-TR-CVF, 21-0566-TR-CVF

Summary: Entry that the Commission grants Staff's motion for default judgment against Stephen Towett electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio