

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF LINDSEY OLDEN,
NOTICE OF APPARENT VIOLATION AND
INTENT TO ASSESS FORFEITURE.

CASE NO. 23-36-TR-CVF
(OH3274023982D)

ENTRY

Entered in the Journal on May 3, 2023

I. SUMMARY

{¶ 1} The Commission grants Staff's motion to dismiss the case, finding that there is no jurisdiction to further adjudicate this matter.

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

{¶ 3} On January 11, 2023, Lindsey Olden (Respondent) sent a letter to the Commission requesting to reopen the case.

{¶ 4} On March 20, 2023, Staff filed a motion to dismiss the case. In its motion to dismiss, Staff argues that the case is an improper attempt to reopen a matter that is already subject to a final order of the Commission. Staff states that a notice of apparent violation and intent to assess forfeiture was sent to Respondent on October 21 2021, and a second notice was sent to Respondent on November 20, 2021. Staff further notes that on February 23, 2022, Staff sent a letter to Respondent indicating that the forfeiture was unpaid. Staff contends that Respondent took no action to dispute the violations within the time allowed. Staff contends that Respondent had ample opportunity to contest the violation and forfeiture but failed to do so in a timely manner. Staff emphasizes that a final

Commission judgment has already been made and that Respondent should not have further opportunity to contest the violation. Staff urges dismissal of the case.

{¶ 5} Respondent did not file a response to Staff's motion to dismiss.

{¶ 6} The Commission finds Staff's motion to dismiss the case to be reasonable. Initially, we note that the Commission has already found Respondent in default, pursuant to Ohio Adm.Code 4901:2-7-14, in *In re Default of Motor Carriers and Drivers*, Case No. 22-86-TR-CVF, Finding and Order (Feb. 23, 2022) at 30. Ohio Adm.Code 4901:2-7-14 states that respondents found in default are deemed to have admitted the occurrence of the violation and waive all further right to contest liability. The Commission's order directed any respondents to indicate why they are not in default by March 23, 2022. Here, the request to reopen was not filed until January 11, 2023. As indicated by Staff, Respondent did not respond in a timely manner to the October 21, 2021, or November 20, 2021, notices of apparent violation or to the Commission's February 23, 2022 Finding and Order requiring Respondent to either pay the assessed forfeiture or demonstrate why he was not in default. Respondent did not request a rehearing of the February 23, 2022 Finding and Order, nor did he reply to Staff's February 23, 2022 letter indicating that the forfeiture was unpaid. Finally, Respondent did not respond to Staff's March 20, 2023 motion to dismiss in this case. Therefore, as there is already a final Commission decision concerning Respondent's default, Staff's motion to dismiss should be granted.

III. ORDER

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That Staff's motion to dismiss be granted. It is, further,

{¶ 9} ORDERED, That a copy of this Entry be served upon Respondent and all other parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

Daniel R. Conway

Lawrence K. Friedeman

Recusal:

John D. Williams

JWS/dr

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in

Case No(s). 23-0036-TR-CVF

Summary: Entry that the Commission grants Staff's motion to dismiss the case, finding that there is no jurisdiction to further adjudicate this matter electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.