



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NUMBER 1507-C-90-L

RE: RECONSIDERATION OF THE MATTER OF THE
CITATION OF RAYMOND L. CHARBONNEAU D/B/A
ANTIQUE LIMOUSINE SERVICE, LLC.

REVISED FINAL DECISION UPON RECONSIDERATION

December 15, 2015

I. INTRODUCTION

A. Background

By citation dated August 11, 2015, issued by the Department of Transportation (hereinafter "department"), pursuant to Connecticut General Statutes Section 13b-103, as amended, Raymond L. Charbonneau D/B/A Antique Limousine Service, LLC (hereinafter "respondent"), holder of livery Permit Number 2650, was ordered to come before the department to answer allegations made therein.

The respondent was directed to appear at the Newington office of the Department of Transportation to show cause why Permit Number 2650, for the for the operation of motor vehicles in livery service and for the registration of interstate authority should not be suspended or revoked or a civil penalty imposed for violation of Connecticut General Statutes Section 13b-102, et seq.

The allegations against the respondent include violation of its livery permit issued pursuant to Connecticut General Statutes Section 13b-103 by the following actions:

- Failure to register its vehicles in violation Section 13b-103 of the Connecticut General Statutes; and

- Failure to maintain its Federal Motor Carrier Safety Administration authority up to date and registered with the State of Connecticut in violation of Connecticut General Statutes Section 13b-102(b); and

- Failure to maintain insurance, in violation of Connecticut General Statutes Section 14-29.

The citation was served upon the respondent by first class and certified mail and recited the department's reasons for issuing same.

B. Hearing

Pursuant to Section 13b-103 of the Connecticut General Statutes, as amended, the public hearing for this citation was held on September 10, 2015.

Notice of the citation and of the hearing to be held thereon was given to the respondent and to such other parties as required by General Statutes Section 13b-103, as amended.

A hearing officer was designated by the Commissioner of Transportation to conduct the hearing on this matter, pursuant to Connecticut General Statutes Section 13b-17.

C. Appearances

Raymond L. Charbonneau D/B/A Antique Limousine Service, LLC, whose mailing address of record is 81 Deerwood Drive, Bethlehem, Connecticut, failed to appear at the citation hearing. The notice issued to the respondent by certified mail was delivered to the respondent on August 13, 2015. (USPS Tracking).

Valerie Seery, License and Applications Analyst with the Regulatory and Compliance Unit of the department, presented the evidence in this matter.

D. Reconsideration

By letter dated September 30, 2015, Raymond L. Charbonneau, owner of the respondent company, requested a stay of revocation, reconsideration, and a new hearing.

The request for stay of the revocation was granted and reconsideration was granted and the record of the original hearing was opened. The hearing on the reconsideration was held on November 24, 2015 at the Newington office of the department. Raymond Charbonneau appeared on behalf of the respondent and Valery Seery appeared on behalf of the Regulatory and Compliance Unit of the department.

Charbonneau argued that he had downsized his company and was under the impression that the unused vehicles would be addressed administratively by the department. He therefore failed to look at the mail he received regarding the citation hearing. He testified on the record that he had never failed to have insurance. In support of this contention, the respondent's insurance agent testified that he has covered the respondent over the past many years and the respondent has never been without insurance.

Seery testified on behalf of the Regulatory and Compliance Unit that the information that the Unit had on file was not incorrect. The FMCSA filings were out of compliance at the time of hearing, but that at this hearing, the respondent was now in compliance. It appeared that there was lack of communication between the FMCSA and the respondent.

At the reconsideration hearing, the respondent was in compliance with two vehicles and he testified to his intention of surrendering twelve (12) of

his plates, since he was not using them and since he had not used them in some time.

Based on the evidence of record provided at the reconsideration hearing, twelve (12) of the fifteen (15) vehicles authorized to operate under Permit No. 2650 will be revoked. The respondent will be assessed a civil penalty for failure to register its vehicles. The evidence of insurance is hereby accepted; and the respondent is put on notice that he must maintain communications with the department.

II. REVISED FINDINGS OF FACT

1. The respondent is holder of Livery Permit No. 2650.
2. On or about June 29, 2015, during a routine vehicle record check, License and Applications Analyst, Valerie Seery, discovered that, although the respondent holds authority to operate fifteen (15) motor vehicles in livery service, two of which are authorized to operate limited/special livery. The respondent had only three (3) vehicles registered.
3. Seery sent a certified letter, dated July 1, 2015, to the respondent at his mailing address of record directing the respondent to register its vehicles within thirty days of the date of the letter.
4. The letter was delivered to the respondent by the United States Post Office on July 28, 2015.
5. The respondent did not contact the department regarding registering his vehicles.
6. As a result of the finding that the respondent did not have all of his vehicles registered, Seery searched the Federal Motor Carrier Safety Administration records and found that said records showed that the respondent's authority was inactive and the respondent had no insurance on file.
7. The respondent requested reconsideration of the revocation of its permit.
8. The respondent's insurance agent verified that the respondent was insured at all times pertinent to this matter.
9. The respondent did not register its twelve (12) vehicles and does not intend to operate them.
10. The respondent's FMCSA authority is in good standing as of the date of the reconsideration.

III. DISCUSSION

The Department of Transportation has jurisdiction over matters pertaining to the operation of motor vehicles in livery service in the State of Connecticut accordance with Connecticut General Statutes Section 13b-102, as amended.

Pursuant to Connecticut General Statutes Section 13b-103 the department may amend, or for sufficient cause suspend or revoke any such permit. Further, the department may impose a civil penalty on any person who violates any provision of the governing chapter or any regulation adopted under Section 13b-102 through 13b-109, as amended, with respect to fares, service, operation or equipment, in an amount not to exceed one thousand dollars per day for each violation.

The evidence shows that the respondent is authorized to operate fifteen (15) motor vehicles in livery service but that only three (3) of said vehicles were registered and the owner of the company testified that he intends to surrender those unregistered twelve vehicles. Charbonneau further testified that he did not look at his mail from the department and thus was unaware of the hearing, until it was too late. He has undergone some personal challenges and was not cognizant of the status of the vehicles in question since he thought they would just be automatically surrendered. Charbonneau's insurance agent appeared and testified that the respondent was insured since the inception of his livery business. There was some miscommunication with the FMSCA and his federal authority was revoked because they did not receive information of his insurance.

While this hearing officer understands that sometimes we face challenges that may take our attention away from other matters, one is under the obligation and responsibility to ensure that one's business is in order, in all respects. Charbonneau had a duty to open the mail from the department as his company is regulated by the department and follow through with its licensing requirements.

IV. REVISED CONCLUSIONS OF LAW

Based on the evidence of record, the respondent is in violation of its permit, issued pursuant to Connecticut General Statutes Section 13b-103, which requires the permit holder to comply with the laws, regulations and rules governing livery service. The respondent failed to comply by failing to register its vehicles pursuant to Connecticut General Statutes Section 13b-103 and 13b-106; the respondent is found to have insurance coverage for the period of time in question. The lack of insurance violation is dismissed.

V. REVISED ORDER UPON RECONSIDERATION

Based on the evidence of record provided at the reconsideration hearing, the following orders are hereby entered:

1. The Permit No. 2650, standing in the name of Raymond L. Charbonneau D/B/A Antique Limousine Service, LLC, is hereby re-instated as to the three (3) currently registered vehicles;
2. The unused and unregistered authority under Permit No. 2650 for twelve (12) livery vehicles is hereby expressly revoked;
3. The Raymond L. Charbonneau D/B/A Antique Limousine Service, LLC is hereby ordered to pay to the Department of Transportation a civil penalty in the amount of **ONE THOUSAND DOLLARS** (\$1000) for violation of its Permit issued pursuant to Connecticut General Statutes Section 13b-103 (\$500) and violation of Section 13b-106 (\$500) for failure to register its vehicles.

Raymond L. Charbonneau D/B/A Antique Limousine Service, LLC shall pay said civil penalty by certified check, bank check or money order made payable to the Treasurer, State of Connecticut," within thirty days from the date of this final decision.

Failure of Raymond L. Charbonneau D/B/A Antique Limousine Service, LLC to comply with this order shall result in revocation without further proceeding.

This Final Decision constitutes notice within the meaning of Connecticut General Statutes Section 4-182(c).

The Regulatory and Compliance Unit is requested to reissue Permit No. 2650 in accordance with this Final Decision.

Dated at Newington, Connecticut on this 15th day of December 2015.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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