



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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NEWINGTON, CONNECTICUT 06131-7546

Phone: (860) 594-2875

DOCKET NUMBER 1307-C-293-L
(Case No. LV07-1913-21)

RE: IN THE MATTER OF THE CITATION OF VILLA BIANCA, INC.

Final Decision

December 16, 2013

I. INTRODUCTION

A. Background

By citation dated September 11, 2013, issued by the Department of Transportation (hereinafter "department") pursuant to Connecticut General Statutes Section 13b-103, as amended, Villa Bianca, Inc. (hereinafter "respondent"), holder of Livery Permit Number 2415, was ordered to come before the department to answer allegations made therein.

Pursuant to said citation, the respondent was directed to appear at the Newington office of the Department of Transportation to show cause why Permit Number 2415 for the operation of intrastate livery service, should not be suspended, revoked or a civil penalty imposed for violation of its permit, issued in accordance with Connecticut General Statutes Section 13b-103.

More specifically, the respondent is alleged to have violated its permit by:

- Operating an unregistered vehicle in livery service in violation of Connecticut General Statutes Section 14-12(a)
- Operating in livery service without a proper endorsement in violation of Connecticut General Statutes Section 14-44(a);
- Operating without a proper public service operator's license in violation of Regulations of Connecticut State Agencies Section 16-325-6;

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 November 19, 2013.

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.

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

C. Appearances

Villa Bianca, Inc. appeared, without counsel, through Tonino Mavuli, owner of the company.

Eugene Morris, Transportation Public Transit Inspector, with the Regulatory and Compliance Unit of the Department of Transportation presented the department's evidence.

II. FINDINGS OF FACT

1. The respondent is holder of Livery Permit Number 2415 and is authorized to operate vehicles in intrastate livery service from a headquarters in Seymour, Connecticut.
2. On May 25, 2013, the Department of Transportation and the Department of Motor Vehicles conducted a joint enforcement action in Glastonbury for the inspection of livery vehicles.
3. Dennis King, manager of the Regulatory and Compliance Unit of the department, was present at the enforcement venture on May 25, 2013.
4. A vehicle bearing marker plate L7362L, registered to the respondent, was stopped for inspection. Although the driver had a license, the license did not have the requisite endorsement. The vehicle also had an expired registration.
5. The respondent's driver was issued a complaint ticket for failing to have a properly endorsed license. The company was issued a complaint ticket for operating an unregistered vehicle.
6. The vehicle failed to be registered because the respondent's insurance payment did not process correctly.
7. The driver had applied for his public service endorsement on April 29, 2013 but had not received it prior to providing the trip. The driver was asked to drive at the last minute, he brought his application to the owner of the company, who accepted the paperwork (thought it was his public passenger endorsement but failed to look at it).
8. The driver paid for his ticket in court. The court entered a nolle and did not pursue the complaint.
9. On July 23, 2013, the department sent the respondent a letter pursuant to Connecticut General Statutes Section 13b-103(c) providing notice of an alleged violation and advising that an opportunity for hearing would be provided should allegations be sustained.
10. Prior to the imposition of a civil penalty under Connecticut General Statutes Section 13b-103(c) the department shall provide notice to the respondent no later than fifteen (15) business days after receipt of information concerning an alleged violation and shall provide an opportunity for a hearing.

11. The respondent's insurance issue was corrected, the driver received his public service endorsement, the respondent's vehicle was registered and the respondent remains in compliance.
12. The respondent has no citations on its record.

III. DISCUSSION AND CONCLUSIONS OF LAW

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.

While the respondent should not have used the vehicle for such a trip, it was a minor transgression. It appears from the respondent's evidence that the events of the day were a "perfect storm" for error and the errors were not intentional.


Moreover, prior to imposition of a civil penalty, the respondent must be provided with notice of the allegations no later than 15 business days. The department failed to send notice of the allegations within 15 business days of the receipt of information concerning the alleged violation. Dennis King was present at the enforcement venture and had knowledge of the complaint as of May 25, 2013. Given that the notice of the allegation was not provided to the respondent within the statutory time limits, as required by C.G.S. Section 13b-103(c), and that the violation alleged in this matter did not pose an imminent threat to public safety, the matter will be dismissed.

IV. ORDER

Based on the foregoing, the citation is hereby dismissed.

Dated at Newington, Connecticut on this the 16th day of December, 2013.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



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