

04-0662
Miscellaneous
Signed 08/09/2006

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)	
)	ORDER
Petitioner,)	
)	
v.)	Appeal No. 04-0662
)	Impound No. #####
MOTOR VEHICLE DIVISION,)	
UTAH STATE TAX COMMISSION,)	Tax Type: DUI Admin. Fee
STATE OF UTAH,)	Tax Period: 2000
)	
Respondent.)	Judge: Jensen

Presiding:

Clinton Jensen, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REPRESENTATIVE 1, Assistant Attorney General
RESPONDENT REPRESENTATIVE 2, Motor Vehicle Division

STATEMENT OF THE CASE

The parties participated in an Initial Hearing on March 16, 2006. Petitioner is requesting a return of the administrative impound fee assessed when his car was impounded following his arrest for driving under the influence.

At hearing, PETITIONER indicated that at no time following his arrest was he ever charged with driving under the influence. The Division did not dispute this. PETITIONER at one time applied to the Commission for a refund of impound fee, but did not present evidence that reckless driving charges against him were ever dismissed. In a letter dated May 18, 2004, the Commission denied the Petitioner's request on that basis. At hearing, however, PETITIONER presented evidence that all charges against him had been dismissed. The Division

did not dispute this.

The Commission's May 18, 2004 denial warned the Petitioner that his claim for refund may be precluded under Utah Code 41-1a-1203, which required that the refund request be submitted within six months of payment of the fee. At hearing, PETITIONER submitted evidence of at least six government offices he visited in an effort to gain a refund of the impound fee. The evidence suggests that these offices were reasonable choices to gain a refund and that he followed directions made by the first offices to go to additional offices. He testified that he made these visits and others within six months of paying the impound fee. As for the requirement that his refund request be in writing, PETITIONER testified that he filled out forms at several of the offices he visited. The Division did not dispute these claims, including the claim that PETITIONER made a written request within six months.

APPLICABLE LAW

Utah Code Section 41-1a-1203. If the division through error collects any fee not required to be paid, the fee shall be refunded to the person paying the fee upon written application for a refund made within six months after date of the payment.

ORDER

Based upon a review of the evidence, the Petitioner made written application of an impound fee within six months after payment of the fee. There exists reasonable cause to refund that fee. The Commission grants Petitioner's request for a refund of his impound fee. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any

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party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2006.

Clinton Jensen
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this _____ day of _____, 2006.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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