

09-1843
REFUND REQUEST
SIGNED 08-13-2009

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, vs. MOTOR VEHICLE DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	INITIAL HEARING ORDER Appeal No. 09-1843 Impound No. ##### Tax Type: DUI Administrative Fee Tax Year: 2009 Judge: Marshall
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Presiding:

Jan Marshall, Administrative Law Judge

Appearances:

For Petitioner: No one appeared
For Respondent: RESPONDENT REP 1, Assistant Attorney General
RESPONDENT REP 2, Motor Vehicle Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing on July 9, 2009. An effort was made to reach the Petitioner by telephone, but was unsuccessful as the telephone number provided by Petitioner had been disconnected. Petitioner is requesting a refund of the administrative impound fee assessed when his vehicle was impounded following an arrest of the driver for driving under the influence.

APPLICABLE LAW

A refund of the DUI administrative fee shall be refunded under Utah Code Ann. §41-6A-1406(6)(c), as follows:

The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refund by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

- (i) the Driver License division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 30 days of the final

notification from the Driver License Division; or

- (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 30 days of the impoundment.

Utah Code Ann. §41-6a-1406(6)(c) (2008).

DISCUSSION

Petitioner requested a refund of the administrative impound fee assessed. Petitioner did not appear at the hearing, and was unavailable to appear by telephone. In his Petition for Redetermination, the Petitioner stated that he was not the driver of the vehicle, and feels that the person driving who was charged with a DUI should be responsible for the fee.

The Division's representative stated that under Utah Code Ann. §41-61-1406(6)(c)(i), the administrative impound fee can be refunded if the arrested person's driver license was not suspended or revoked, and a copy of the letter from the Driver License Division was submitted within 30 days. The Division provided a copy of the Petitioner's Request for Refund, which names PETITIONER as the driver of the vehicle, as well as a copy of a Driver License Record for PETITIONER with an indication that the Driver License Division took action. It is the Division's position that the Petitioner is not entitled to a refund because the Driver License Division took action on PETITIONER' license. The Division's representative also pointed out that the Petitioner did not provide a copy of a stolen vehicle report.

Utah Code Ann. §41-61-1406(6)(c) sets forth the circumstances under which a refund of the administrative impound fee can be refunded. The information provided by the Division indicates that action was taken against PETITIONER' driver license. Further, the Petitioner did not provide a stolen vehicle report within 30 days. Under the circumstances, the Commission is unable to issue a refund of the administrative impound fee

DECISION AND ORDER

Based upon the foregoing, the Commission denies Petitioner's request for a refund of the 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 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

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request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

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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 _____, 2009.

Jan Marshall
Administrative Law Judge

BY ORDER OF THE UTAH STATE TAX COMMISSION

DATED this _____ day of _____, 2009.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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