

MCC 20501256

FILED

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BEFORE THE CORPORATION COMMISSION OF OKLAHOMA

OKLAHOMA CORPORATION COMMISSION

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

VS.

) CAUSE NO. MCC 201501256
)
) CAUSE NO. MCC 201501257
)
) MOTOR CARRIER CITATION
) 7155260 and 7155261
)

RESPONDENT ROAD QUEST LOGISTICS, D/B/A
KING KONG TRUCKING

MC

HEARING: February 18, 2015, 9:00 a.m. in Courtroom B
2101 N. Lincoln Boulevard, Oklahoma City, OK 73105
Before Mary Candler, Administrative Law Judge

APPEARANCES: Mark Willingham, Assistant General Counsel, *representing* Transportation
Division, Oklahoma Corporation Commission;
Dennis James, Pro Se, Owner of Road Quest Logistics DBA: King Kong
Trucking, 11318 Chestnut Woods Trail, Houston, TX, 67277, appeared
on behalf of Respondent.

REPORT OF THE ADMINISTRATIVE LAW JUDGE

This Cause came on for hearing before an Administrative Law Judge ("ALJ") for the Oklahoma Corporation Commission ("Commission"), on the 18th day of February 2015, in the Commission's Courtroom, Jim Thorpe Building, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Commission, for the purpose of taking testimony and reporting to the Commission.

CASE SUMMARY:

Respondent was issued a Motor Carrier Violation in Bryan County, Oklahoma on January 7, 2015. The violations were for Failure to Register a Commercial Vehicle in violation of 47 O.S. §1115 and No Current Fuel License or Decal in violation of 68 O.S. §607.1. After Respondent had discussion with Commission staff, the matter remained contested and a hearing was conducted.

RECOMMENDATIONS:

The ALJ recommends the violations be upheld and Respondent be required to pay any necessary fines associated with these cited violations, consistent with the staff recommendation.

FINDINGS AND SUMMARY OF EVIDENCE.

1. Citation numbers 7155260 and 7155261 were properly issued in Bryan County, Oklahoma by a duly authorized representative of the Oklahoma Corporation Commission.

2. The Commission has jurisdiction over the subject matter and notice has been given in all respects as required by law and the rules of the Commission.

SUMMARY OF EVIDENCE

Testimony of Gary Hewett

Mr. Hewett testified he was a Motor Carrier Enforcement Officer. As a sergeant, he has supervised other officers at fixed locations such as scale sites in Oklahoma. He indicated another officer issued the violations but stated he was familiar with the violations in question and the statutes referenced on each citation. Mr. Hewett testified that vehicles traveling in Oklahoma weighing over 26,001 pounds are required to register as a commercial vehicle pursuant to 47 O.S. §1115 and have a fuel license permit or IFTA license.

Mr. Hewett testified that Respondent's combined vehicle weight rating for the vehicle in question was 23,100 pounds. The actual weight of Respondent's vehicle was 29,900 pounds. Once the vehicle surpassed the weight of 26,001 pounds, the vehicle was required to register as a commercial vehicle pursuant to 47 O.S. §1115 and have a fuel license permit or IFTA license pursuant to 68 O.S. §607.1.

Testimony of Dennis James

Mr. James gave a sworn statement on behalf of Road Quest Logistics LLC, d/b/a King Kong Trucking. Mr. James testified that he thought federal law and state law were in conflict regarding these citations. He also claimed that he had requested copies of the statutes in question but was unable to obtain a copy of these statutes. Mr. Willingham provided copies of these statutes to Mr. James following the hearing.

Mr. James stated that the driver of Respondent's vehicle loaded the vehicle with pallets of ceramic tile. Mr. James admitted the weight of the load caused the vehicle to be grossly overweight. Mr. James stated that this vehicle was not rated for this kind of weight and, under normal operating conditions, would not be required to have an IFTA license, fuel permit or trip permit or registration. The vehicle was operating beyond what the vehicle was supposed to carry.

Mr. James testified that drivers for Respondent are trained to weigh a load prior to transportation of the load. However, in this case, the driver failed to weigh the loaded vehicle. Mr. James further testified his company operated in good faith and tried to keep up with all federal and state regulations.

Mr. James argued Respondent should have been cited for being overweight instead of the violations for which Respondent was cited.

CONCLUSIONS AND RECOMMENDATIONS

The evidence presented was that the vehicle in question had an actual weight of 29,900 pounds at the time the two citations were issued on January 7, 2015. The vehicle was only rated

to have a combined gross vehicle weight of 23,100 pounds. However, vehicles weighing more than 26,001 pounds are required to register as a commercial vehicle pursuant to 47 O.S. §1115 and have a fuel license permit or IFTA license pursuant to 68 O.S. §607.1. Respondent operated this vehicle with weight that far exceeded the vehicle's combined gross vehicle weight rating and ultimately the excessive weight triggered additional requirements in order to operate this vehicle. Respondent's vehicle weighed more than 26,001 pounds and therefore Respondent was required to operate the vehicle pursuant to Oklahoma statutes governing vehicles weighing more than 26,001 pounds.

After considering the evidence, it is the recommendation of the ALJ that the citations be upheld as issued and Respondent be required to pay any necessary fines associated with these cited violations.

RESPECTFULLY SUBMITTED THIS 12th day of March, 2014.



Mary Candler
Administrative Law Judge

cc: Dennis James
Mark Willingham
Michael Decker
Pat Franz
Commission File