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Decision No. 91826 MAY 20 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

James O. Turner, doing business as J. Turner Trucking, for reinstatement of highway carrier permits.

Application No. 59378
(Filed January 4, 1980)

O P I N I O N

James O. Turner, doing business as J. Turner Trucking, held radial highway common carrier, dump truck carrier and agricultural carrier permits. The permits were suspended June 25, 1979 and subsequently revoked on July 5, 1979 for failure to redeem a dishonored check issued to the Commission for Transportation Rate Fund fees and Highway Carrier's Uniform Business License Taxes due for the fourth quarter of 1978 and to pay a service charge assessed for the unredeemed check. The applicant requests reinstatement of his operating authority. He explains that the failure to pay the amount due (now paid) was a result of confusion and mistakes caused by financial problems.

Applicant's initial request to the Commission for reinstatement was made by letter dated December 6, 1979. Therein, he clearly demonstrates awareness of his lack of operating authority at that time. Subsequently, however, applicant was prosecuted and pleaded guilty to operating without authority on December 19, 1979 in Case M 187879 in Citrus Municipal Court in West Covina on April 1, 1980. He was fined $500 plus penalty and was placed on three years summary probation.

Review of the applicant's background on file with the Commission (T-101,937) reveals a record of numerous instances of failure to meet Commission requirements, including nonpayment of fees and taxes, lapses of insurance coverage and returned checks, culminated by a previous revocation of his operating permits on

June 9, 1978 for failure to pay fees and taxes. In that instance, although the applicant's records indicated that he was notified on two occasions of the omission and potential revocation, the Commission staff accepted his claim that he had not received that information and reinstated his permits, pursuant to authority delegated to the Executive Director. That delegated authority is expressly to be used only in instances wherein the revocation occurred through mitigating circumstances beyond the reasonable control of the carrier. Notwithstanding the experience of a previous revocation, the Commission found it necessary to again revoke his operating authority on July 5, 1979 for the same reason.

As a means of immediate employment, applicant has applied for a seasonal agricultural carrier permit.

The Commission finds that applicant's first permit was granted on August 9, 1972. Since that date the Commission's records reveal six instances of delinquent fees and taxes and seven lapses of public liability and property damage insurance coverage, a requirement for the protection of the public. Under Section 3774 of the Public Utilities Code the applicant's operating authority was revoked twice. Subsequent to the first revocation on June 9, 1978, the Commission reinstated his permits on the basis of his claim that he did not receive notice. Subsequent to the second revocation on July 5, 1979, he applied for reinstatement. He claimed he had been confused. Nevertheless, cognizant of the revocation, he continued to operate and was prosecuted and pled guilty for such violation of the law.

The Commission concludes that the applicant has had ample opportunity to continue to operate as a highway carrier but has shown a total disregard for the rules and regulations of the Commission. Notwithstanding the revocation, applicant knowingly

continued to operate as a for-hire carrier in violation of the Public Utilities Code. The Commission staff did not recommend to the Commission that the authority be reinstated. The carrier still has the option of applying for new authority. Based on the foregoing facts, the Commission concludes that the application for reinstatement should be denied.

O R D E R

IT IS ORDERED that Application No. 59378 is denied.

The effective date of this order is the date hereof.

Dated MAY 20 1980, at San Francisco, California.

John E. Bryson
President

Commissioners