

Before the
Administrative Hearing Commission
State of Missouri



KIMBERLY DAVIS,)	
)	
Petitioner,)	
)	
vs.)	No. 14-1609 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

We grant the Director of Revenue’s (“Director’s”) motion for decision on the pleadings and deny the refund request of Kimberly Davis.

Procedure

On October 2, 2014, Davis filed a complaint seeking a refund of fees paid for license plates and tabs. The Director filed an answer and motion for decision on the pleadings on October 10, 2014. We notified Davis that she could respond to the Director’s motion by October 28, 2014, but she did not respond.

Regulation 1 CSR 15-3.446(4)¹ provides:

A decision on the pleadings is a decision without hearing based solely on the complaint and the answer. The commission may grant a motion for decision on the pleadings if a party’s pleading, taken as true, entitles another party to a favorable decision.

¹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

Based upon the complaint, which we take as true, we find the following facts.

Findings of Fact

1. On June 25, 2014, Davis' husband purchased new registration tabs for a 2012 Buick driven by Davis, which was a leased vehicle.
2. Shortly thereafter, the lease ended, and Davis bought the vehicle.
3. On July 16, 2014, upon transferring the title, Davis was required to pay for new license plates and tabs, and Davis requested a refund for the tabs purchased in June.
4. By letter dated September 2, 2014, the Director denied Davis' refund request.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.² Davis has the burden to prove that she is entitled to a refund.³ Our duty is not merely to review the Director's decision, but to independently apply existing law to the facts and render the ultimate administrative decision.⁴

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute.⁵ "When a state consents to be sued, it may be proceeded against only in the manner and to the extent provided by the statute; and the state may prescribe the procedure to be followed and such other terms and conditions as it sees fit."⁶

Missouri statutes provide for refunds or credits against unused license plates and tabs from motor vehicles only in limited circumstances. Section 301.121, for example, provides for a refund of certain amounts paid when a license plate is surrendered, but only for commercial

² Section 621.050. All statutory references are to RSMo Supp. 2013, unless otherwise noted.

³ *Id.*

⁴ *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁵ *Community Fed. Sav. & Loan Ass'n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990).

⁶ *State ex rel. Brady Motorfrate, Inc. v. State Tax Comm'n.*, 517 S.W.2d 133, 137 (Mo. 1974).

vehicles registered in excess of 54,000 pounds. By contrast, § 301.140.7, which applies to other motor vehicles, provides:

Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of vehicle category, **the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle.** Such credit shall be granted based upon the date the license plates are surrendered. **No refunds shall be made on the unused portion of any license plates surrendered for such credit.**

Section 301.140.7 allows a credit for the unused portion of the original registration fee against the registration fee of another motor vehicle upon transfer of ownership of a vehicle, but only when the owner cannot transfer the license plates due to a change of vehicle category. Based upon the facts before us, Davis did not surrender the plates due to a change in vehicle category, so she is not eligible for a credit under this subsection. The provision expressly disallows a refund for the unused portion of plates and tabs when surrendered.

Davis' complaint states that she should get a refund because if she and her husband had known the tabs and plates would be replaced, they would have put off buying new tabs until they bought the 2012 Buick. She also argues that she should get a refund as a matter of customer service on the part of the Department of Revenue. However, we may do only what the law allows us to do, and neither the Director nor this Commission may change the law.⁷ When we consider the general principles of law governing refunds, and examine the pertinent statutes, we find no law authorizing a refund to Davis under these circumstances. We conclude that none exists. Therefore, we must deny Davis' request for a refund.

⁷ *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).

Summary

Davis is not entitled to a refund of the fees she paid for the license plate tabs purchased for the 2012 Buick in June 2014.

SO ORDERED on November 20, 2014.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner