

Before the
Administrative Hearing Commission
State of Missouri



REBECCA AND KRISTOPHER DIX,)	
)	
Petitioners,)	
)	
vs.)	No. 13-1232 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

Rebecca and Kristopher Dix are not entitled to a refund of fees paid for tabs renewing their motor vehicle license plates.

Procedure

On July 11, 2013, Petitioners filed a complaint seeking a refund of fees paid for tabs renewing their license plates for a 2007 BMW motor vehicle. The Director of Revenue (“Director”) filed an answer and motion for decision on the pleadings on July 31, 2013. Petitioners filed a response on August 12, 2013.

Regulation 1 CSR 15-3.446(3) 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.

Facts Taken as True for Purposes of Ruling on the Motion

Based upon the complaint, which we take as true for purposes of ruling on the motion for decision on the pleadings, we find the following facts:

1. On June 19, 2013, petitioners paid fees to renew the license plates on their 2007 BMW motor vehicle.¹
2. Petitioners sold the 2007 BMW prior to June 26, 2013.
3. On June 24, 2013, petitioners leased a 2013 Audi motor vehicle.
4. Petitioners were unable to transfer the plates from the BMW to the Audi.
4. On June 26, 2013, petitioners requested a refund of the fees that they paid for the renewal of license plates on the 2007 BMW.
5. On June 28, 2013, the Director issued a final decision denying petitioners' refund application.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.² Petitioners have the burden to prove that they are 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

Petitioners argue that they are entitled to a refund because the fees were paid for license plate tabs that will never be (and were never) used. The Director argues that no provision of law authorizes him to issue a refund under these circumstances. The Director is correct.

¹ Petitioners do not specify how much they paid in fees.

²Section 621.050, RSMo 2000. Statutory references are to the 2012 Cumulative Supplement to the Missouri Revised Statutes unless otherwise noted.

³*Id.*

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

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 Subsections 3 and 8 of § 301.140 authorize transfer of license plates and surrender of license plates. Both of these subsections explicitly state that no refunds will be given.

Our research discloses only one statutory provision that would allow a refund for some license plates fees. Section 301.121 provides for a refund of certain amounts paid when a license plate is surrendered, but applies to commercial vehicles registered in excess of fifty-four thousand pounds. Petitioners may not avail themselves of § 301.121 because their transaction did not involve a commercial vehicle.

We have found no provision of law allowing a refund to petitioners. Neither the Director nor this Commission can change the law.⁷ We have no authority to allow a refund under these circumstances.

Summary

Petitioners are not entitled to a refund of fees paid for the renewal of license plates for their 2007 BMW motor vehicle.

SO ORDERED on September 6, 2013.

/s/ Mary E. Nelson
MARY E. NELSON
Commissioner

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

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

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