

Before the
Administrative Hearing Commission
State of Missouri



JAMES POUND,)	
)	
Petitioner,)	
)	
vs.)	No. 14-1305 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

James Pound is not entitled to a refund of fees paid for the motor vehicle license plate/tab renewal completed on June 4, 2014.

Procedure

On July 31, 2014, Pound filed a complaint seeking a refund of fees paid to renew his license plates/tabs. The Director of Revenue (“Director”) filed an answer and motion for decision on the pleadings on August 19, 2014. We gave Pound until September 4, 2014 to file a response to the Director’s motion, but he did not respond.

Regulation 1 CSR 15-3.446(4) 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.

Findings of Fact

1. On June 4, 2014, Pound paid \$85.50 in fees to renew the personalized license plates for a 2002 Chevrolet.
2. The aforementioned vehicle was driven primarily by Pound's wife who passed away on July 8, 2014.
3. Pound sold the vehicle on July 10, 2014.
4. Pound surrendered the license plates and the tabs from the 2002 Chevrolet and made a refund request on July 16, 2014.
5. The Director denied the request for a refund on July 29, 2014.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.¹ Pound has the burden to prove that he is entitled to a refund.² 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.³

Pound argues that a refund is appropriate because he will not use the license plates/tabs for the remaining period of time before the renewal expires. The Director argues that no provision of law authorizes him to issue a refund under these circumstances. The Director is correct.

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute.⁴ "When a state consents to be sued, it may be proceeded against only in the

¹Section 621.050, RSMo 2000. Statutory references are to RSMo Supp. 2013, unless otherwise noted.

²*Id.*

³*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁴*Community Fed. Sav. & Loan Ass'n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990).

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.”⁵

Missouri statutes provide for refunds or credits against unused license plates and tabs 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 vehicles registered in excess of 54,000 pounds. By contrast, § 301.140.8, 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.**

(Emphasis added.) Section 301.140.3 provides:

License plates may be transferred from a motor vehicle which will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles. The owner shall pay a transfer fee of two dollars if the newly purchased vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that of the vehicle which will no longer be operated. When the newly purchased motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, the applicant shall pay a transfer fee of two dollars and a pro rata portion of the difference in fees. When the newly purchased vehicle is of less horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, **the applicant shall not be entitled to a refund.**

Section 301.140.8 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

⁵*State ex rel. Brady Motorfrate, Inc. v. State Tax Comm’n*, 517 S.W.2d 133, 137 (Mo. 1974).

when the owner cannot transfer the license plates due to a change of vehicle category. Based upon the facts before us, this subsection does not apply to Pound's circumstances. This subsection expressly disallows a refund. The applicant is also not permitted a refund under § 301.140.3, which provides for a reduced transfer fee when license plates are transferred from a motor vehicle that will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles.

Unfortunately, we do not find any provision of law authorizing a refund to Pound under the circumstances described in his complaint. We may only do what the law allows us to do, and neither the Director nor this Commission may change the law.⁶ Therefore, we must deny Pound's request for a refund.

Summary

We grant the Director's motion for a decision on the pleadings. James Pound is not entitled to a refund of the fees paid for renewal of the license plates and tabs for the 2002 Chevrolet.

SO ORDERED on November 12, 2014.

/s/ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁶*Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).