

Before the
Administrative Hearing Commission
State of Missouri



ROBERT PRATT,)	
)	
Petitioner,)	
)	
vs.)	No. 15-0142 RV
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

We grant the Director of Revenue’s (“Director”) motion for decision on the pleadings.

Procedure

On January 29, 2015, Robert Pratt 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 February 4, 2015. We gave Pratt until February 19, 2015, to respond, but he 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.

Facts Taken as True for Purposes of Ruling on the Motion

Based upon the complaint, we find the following facts:

1. At all relevant times prior to the events set out below, Pratt owned an automobile which bore license plate number SJ3 S4X.
2. After Pratt bought a different vehicle, someone at the Director's Creve Coeur vehicle license office told him that he could not transfer the plates from the above-referenced automobile to the other vehicle because that car's plates had a two-year duration, but he could only get one-year plates for his new car.
3. Then, Pratt gave that car to his fiancée Priyaah Gupta and sought to transfer the above-referenced automobile's plates to her for a new car she was acquiring.
4. Someone at the Creve Coeur license office told Gupta that she could not transfer the plates to her new car because the car was no longer in her possession. Gupta was also advised to apply for a refund on the unused months of the license plates.
5. Pratt applied for a refund, which the Director refused.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions. Section 621.050, RSMo 2000.² Pratt has the burden to prove that he is entitled to a refund. *Id.* 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. *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute. *Community Fed. Sav. & Loan Ass'n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990). "When a state consents to be sued, it may be proceeded against only

² Statutory references are to RSMo Supp. 2013, unless otherwise noted.

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

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 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.**

(Emphasis added.)

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 when the owner cannot transfer the license plates due to a change of vehicle category. However, it expressly does not allow a refund for the unused portion of plates. Nor does § 301.140.3, which allows 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, apply to Pratt.

Pratt states in his complaint that he (or Gupta) had been advised to apply for the refund for the unused portion of the plates by someone at the Creve Coeur license office. Assuming this to be the case (as we must, for a motion for decision on the pleadings), the person’s misstatement

is regrettable, but it does not change the law. We may do only what the law allows us to do, and neither the Director nor this Commission may change the law. *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985). When we consider the general principles of law governing refunds and examine the pertinent statutes, we find no law authorizing a refund to Pratt under these circumstances. We conclude that none exists. Therefore, we must deny Pratt's request for a refund.

Summary

Pratt is not entitled to a refund of the fees he paid for the license plates. We grant the Director's motion for a decision on the pleadings.

SO ORDERED on March 17, 2015.

NICOLE COLBERT-BOTCHWAY
Commissioner