

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Jamie L. Reyes, Director,) Application No. MCC-3195/
Motor Transportation) B-1941
Department, Nebraska Public)
Service Commission, Lincoln,)
Nebraska,)
Complainant,) ORDER SUSTAINING COMPLAINT
vs.)
Rick Klabenes, d/b/a Good)
Times Bus, Norfolk, Nebraska,)
Respondent.) Entered: September 19, 2017

BY THE COMMISSION:

On May 22, 2017, the Motor Transportation Department (Department) received an insurance Form K notifying the Department insurance for Rick Klabenes, d/b/a Good Times Bus, Norfolk, would expire on June 26, 2017. The department attempted to contact Mr. Klabenes to notify him such notice had been received. The department received no response from Mr. Klabenes. On June 26, 2017, the insurance coverage was cancelled.

On July 11, 2017, the Commission ordered Mr. Klabenes to show cause as to why his Certificate of Public Convenience and Necessity issued under Application No. B-1941 should not be revoked for failure to keep a current Form E insurance filing on file with the Commission. A copy of this complaint was sent via certified mail to Mr. Klabenes place of business. The letter was delivered on July 13 and proof of service was returned to the Commission. The Department sent a settlement offer to Mr. Klabenes on August 10, 2017 via certified mail return receipt requested. The letter was received August 14, 2017, and the receipt was returned to the Commission. No response was received.

On September 6, 2017, a show cause hearing was held in the Commission Hearing Room in Lincoln, Nebraska. Ms. Jamie Reyes and Ms. Ellie Rohr appeared on behalf of Commission staff. No appearance was made on behalf of Mr. Klabenes and Good Times Bus. Exhibits 1 through 4 were received into evidence.

E V I D E N C E

Ms. Rohr confirmed Mr. Klabenes' insurance has in fact lapsed as of June 26, 2017. The fine outlined in the settlement offer would be \$4,500.00 as of the date of hearing. Ms. Rohr explained to the Commission that no response has been received to any of the communications sent by the Department.

Upon questioning from Commissioner Schram, Ms. Rohr stated there has been no indication that the carrier is still operating. No reports have come in from customers. The Department has been unable to reach the carrier. The individual who signed for both letters was an Allie Klabenes.

O P I N I O N A N D F I N D I N G S

Rick Klabenes, d/b/a Good Times Bus, is a common carrier regulated by the Commission pursuant to Neb. Rev. Stat. §§ 75-101 et. seq. and 75-301 et. seq. (2016 Cum. Supp.), and Title 291, Chapter 3 of Commission Rules and Regulations.

NEB. REV. STAT. § 75-315 states that certificates may be revoked after notice and hearing for willful failure to comply with Nebraska statutes governing the Commission, any Commission rule or regulation, or any term, condition, or limitation of the certificate. Section 75-307(1) requires certificated carriers to comply with Commission rules regarding insurance and file those policies with the Commission. Commission Rule 006 sets forth the minimum insurance requirements for motor carriers transporting passengers for a fee in the state.

According to Rule 005.09A of the Commission Rules of Procedure, failure to file an Answer to a Complaint within twenty (20) days of service of the Complaint will be construed as an admission of the allegations in the Complaint except for good cause shown. The certified mail return receipt received as part of Exhibit 3, shows Mr. Klabenes was served service of the Complaint. Additionally, Mr. Klabenes never contacted the Commission, nor did he respond to attempts to contact him. Since Mr. Klabenes failed to respond in any way to the allegations in the Complaint, the allegations detailed in the Complaint are deemed as admitted.

Evidence entered into the record shows that Rick Klabenes d/b/a Good Times Bus's insurance was cancelled June 26, 2017, as shown by the Form K Uniform Cancellation of Motor Carrier Insurance Policies entered into the record as Exhibit 2. Rick

Application No. MCC-3195

Page 3

Klabenes failed to update his insurance information after notification by the Department. No representative for Rick Klabenes appeared at the hearing to show cause as to why his Certificate of Public Convenience and Necessity should not be revoked.

Based on the evidence presented, the Commisison finds that the complaint against Rick Klabenes d/b/a Good Times Bus, Norfolk, should be sustained. Further, the Commission finds that the Certificate of Public Convenience and Necessity issued to Rick Klabenes d/b/a Good Times Bus, Norfolk, should be revoked for failure to comply with NEB. REV. STAT. § 75-307(1) and Commission Rule 006.

The Commission further finds Rick Klabenes d/b/a Good Times Bus, shall pay a fine of four-thousand five-hundred dollars (\$4500.00). Commission Rule of Procedure 027.08B requires any penalty assessed be paid within 30 days from the date the Order is mailed. If the fine is not paid, no subsequent applications for authority will be allowed until the fine is satisfied and the carrier is returned to good standing.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Motor Carrier Complaint MCC-3195 filed against Rick Klabenes d/b/a Good Times Bus, Norfolk, be, and is hereby, sustained.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity issued in Application No. B-1941 to Rick Klabenes d/b/a Good Times Bus, Norfolk, be, and is hereby revoked.

IT IS FURTHER ORDERED that any vehicle plates which have been assigned by the Commission must be returned to the Commission within ten (10) days of the effective date of this Order.

IT IS FINALLY ORDERED that Rick Klabenes shall pay a fine of four-thousand five-hundred dollars (\$4500.00) within 30 days of the mailing of this order. If the fine is not paid, no subsequent applications for authority will be allowed until the fine is satisfied and the carrier is returned to good standing.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. MCC-3195

Page 4

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 19th
day of September, 2017.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Mary Riddin

Crystal Swadlow

Frank E. Landis

//s//Frank E. Landis

//s//Tim Schram

Tim Schram

Chairman

ATTEST:

Michelle J. Smith

Executive Director