



Taxi & Limousine Commission v. Tamsir Drammeh

SUMMONS(ES)

10041370C

DECISION

The appeal of Tamsir Drammeh (the "respondent") is denied.

The Hearing Officer's decision is affirmed.

BACKGROUND

On August 26, 2015, the respondent appealed Hearing Officer Laura Fieber's decision dated July 28, 2015. In that decision, the Hearing Officer found the respondent in violation of Rule 54-12E1 stated in summons number 10041370C.

The Hearing Officer's decision states, in relevant part:

The complainant testified that she, her husband and two children, ages 6 and 11, were at the front of the taxi line at the 8th Avenue side of Penn Station and were directed by the dispatcher to respondent's taxi. The taxi driver had opened the trunk for her husband to load the luggage. The complainant asked the driver to open the front door so she could sit in the front. He would not unlock the door. She asked if there was a problem with her sitting in the front. He did not respond other than to say that her husband could sit in the front. The driver then asked all four people to sit in the back. He never unlocked the front door. The complainant and her family retrieved their belongings and took another cab. The complainant believed the driver discriminated against her because she was a woman.

...

The respondent testified that the complaint was accompanied by her husband and three children when the dispatcher directed them to his taxi. He opened the trunk so he and the family could put the luggage in. The wife tried to enter the front door of the taxi. When she found it locked she asked respondent to open it. He gently asked that the husband be the one to sit in the front, that the complainant sit in the back seat. He did not explain why. The wife cursed him out and left. He called her back to the front seat, but she said to forget about it and took another cab. He explained at hearing that according to his religion, he could not sit next to a woman. If there were a party of four, he would compromise and let the man sit up front. If there were five, he could not take them.

...

1 Deliberately performing or attempting to perform an act that is against the best interests of the public while performing licensee's duties and responsibilities

I find that petitioner has credibly established that the complainant was denied access to the front seat of respondent's taxi for an inappropriate reason: because she was female. That his religion did not allow him to sit next to a woman is not an acceptable defense in an occupation that is operated to serve the public. Of significance, respondent made it clear that the husband would be welcome in the front seat, while the wife/complainant would not be. I do not believe that respondent then agreed to let the complainant sit in the front seat as the family was about to leave to take another cab. Therefore, on the credible evidence before me, I find that respondent has committed a willful act of commission that is against the best interest of the public by prohibiting the complainant from sitting in the front seat of the cab due to her gender and find him in violation of Rule 54-12(e).

On appeal, the respondent, by Charles LaSala, argues, in relevant part, the respondent indicated that he did not drive the taxicab in which the complaining passenger rode and the passenger testified by telephone without identifying the respondent, and that the respondent did not deny service to the passenger or discriminate against the passenger, but merely "attempted to dissuade" the passenger from sitting in the front seat and requested that the passenger's husband do so instead due to the respondent's religious beliefs.

The Taxi and Limousine Commission ("TLC") did not file a response to the respondent's appeal.

ANALYSIS

The Hearing Officer's decision is correct.

Rule 54-12E states:

While performing the duties and responsibilities of a Licensee, a Licensee must not deliberately perform or attempt to perform, alone or with another, any act that is against the best interests of the public, although not specifically mentioned in these rules.

A review of the record reveals that when asked, the respondent testified that he remembered the events that led to the issuance of the summons and he testified concerning his version of those events. At no time did the respondent claim that he was not the driver involved in the incident.

A Hearing Officer's findings will not be disturbed on appeal if those findings are based on substantial evidence. Substantial evidence is such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact (*see Taxi & Limousine Commission v. Exec U Car Limo Inc.*, Lic. No. 5179939 [September 27, 2007] *citing 300 Gramatan Ave. Assoc. v. State Div. of Human Rights*, 45 NY2d 176 [July 13, 1978]).

Based on the testimony of the passenger and of the respondent, the Hearing Officer found credible evidence that the only reason the respondent would have preferred that the passenger sit in the rear seat is because the passenger is female and the respondent's religious beliefs would not allow him to sit next to a woman. The Hearing Officer's credibility determination will not be disturbed on appeal.

Taxi & Limousine Commission v. Tamsir Drammeh

There is strong public policy which prohibits a TLC licensee from engaging in “invidious discrimination while serving the public” (*see Taxi & Limousine Commission v. Park*, OATH Index No. 1014/00 [February 2, 2000], penalty modified, Commission Decision [May 25, 2000]). In addition, it is well established that a taxicab driver is required to possess sufficient self-restraint to deal in a mature fashion with the everyday conflicts inherent in his job (*see Taxi & Limousine v. Nicholas Joseph*, Lic. No. 454770 [March 31, 1995], citing *In re Alan Platt*, C13076 [April 17, 1984]). This includes a situation where the driver’s religious beliefs may conflict with his obligations and duties as a taxi driver to transport members of the public.

Here, the respondent’s determination that it would be proper for the passenger’s husband to sit in the front seat, but not proper for the passenger to do so solely because of her gender, evidenced a discriminatory attitude and constituted an action against the best interests of the public.

The respondent’s arguments raised on appeal are without merit. The decision of the Hearing Officer is affirmed.

Dated: September 3, 2015

OATH Taxi and Limousine Tribunal Appeals Unit