

**DISTRICT OF COLUMBIA**  
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DISTRICT OF COLUMBIA  
TAXICAB COMMISSION  
Petitioner,

v.

ABAY BOGALE  
Respondent.

Case No.: 2011-TAXI-V200000

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**FINAL ORDER**

**I. INTRODUCTION**

On November 21, 2011, Petitioner, the District of Columbia Taxicab Commission (“Taxicab Commission”) issued a Notice of Infraction (“NOI”) charging Respondent Abay Bogale with violating 31 DCMR 819.4 for failure to furnish service on demand to any person (the “Regulation”). The violation allegedly occurred on August 23<sup>rd</sup>, 2011 at 23<sup>rd</sup> Street, NW, near Washington Circle. The Government seeks a fine of \$250.

On November 29, 2011, Respondent entered a plea of Deny to the alleged violations. Consequently, a Scheduling Order issued on December 1, 2011, scheduling an evidentiary hearing for December 21, 2011.

On the date of the hearing, Respondent Abay Bogale appeared and represented himself. David Person, Paralegal Specialist, Taxicab Commission, appeared on behalf of Petitioner. Lauren Walsh and Donna Verbena testified as witnesses for Petitioner.

Based upon the testimony of the witnesses, my evaluation of their credibility, the exhibits admitted into evidence, and the entire record, I now make the following findings of fact and conclusions of law.

## **II. FINDINGS OF FACT**

On August 23, 2011, between the hours of 7:45 and 8:30 pm, Ms. Walsh and Ms. Verbena were in the area of 23<sup>rd</sup> Street and Washington Circle, NW. They hailed a taxicab to hire it for a ride to Virginia. Respondent stopped his taxicab and asked Ms. Walsh where she was going. The women did not respond right away. Instead, they walked around the back of the cab to enter the cab on the rear right passenger side. As the two women attempted to enter the taxicab, Respondent again asked the women their destination. With her hand on the door handle of the taxicab, Ms. Walsh responded, "Ballston, Virginia". Respondent replied that he was not going to Virginia and drove away.

As the cab drove away, Ms. Verbena simultaneously wrote down the cab company name and number, Silver Cab 319. Petitioner's Exhibit ("PX") 101 and 102. Respondent owns cab 319, drives for the Silver Cab Company, and was driving in the area of 23<sup>rd</sup> Street and Washington Circle, NW, on the evening of August 23, 2011.

The women did not see an off duty sign in the windshield nor did they see whether the off duty light on the top of the taxicab was lit. Neither of the women heard Respondent say that he could not take them to Virginia because he was off duty.

Two days later, on August 25, 2011, Ms. Walsh filed a complaint with the Taxicab Commission concurring the incident. (PX) 100.

### **Credibility Analysis**

Respondent testified that he was in the area that evening because he was picking up his wife from the Kennedy Center as he does every evening at around 6:40 pm and that he does not remember the incident as recounted by the two women. He also testified that even if he did speak to the women, he would have told them he was off duty and that there was signage in the windshield indicating that he was off duty and the off duty light was lit on the roof of the taxicab.

The Petitioner's witnesses' were credible. Their recollection of the incident was clear and consistent. Both Ms. Walsh's and Ms. Verbena's testimonies are consistent as to what occurred that evening beginning with how the women attempted to hail the taxicab for hire, to how the taxicab drove off with Ms. Walsh's hand on the door handle.

Moreover, the witnesses provide enough information to establish that Respondent was the individual driving the cab that refused to take them to their destination. Ms. Verbena contemporaneously wrote down the cab number and company, Silver Cab 319, as the taxicab drove away. Respondent admits that he drives cab 319 for the Silver Cab Company and there is no evidence that anyone else was driving Respondent's taxicab on the evening of August 23, 2011.

On the other hand, Respondent's testimony was less than credible. Respondent did not produce evidence to corroborate that he was in the area on August 23<sup>rd</sup> to pick his wife up from work at the Kennedy Center. As to Respondent's contention that if he did talk to the women he told them he was off duty, neither of the witnesses testified that Respondent said he was off duty. Even if Respondent did have an off duty sign in the window and his off duty light on, I am not persuaded that Respondent did not engage the women in preliminary discussions about a cab ride which abruptly ended when he was told they wanted to go to Virginia.

Finally, I do not find Respondent's manifest indicating that he worked from 7:00 am to 1:40 pm persuasive. Respondent's Exhibit ("RX") 200. The manifest is a document authored and maintained by Respondent. There is nothing that prevents Respondent from picking up other passengers that are not accounted for on the manifest. Finally, there is no evidence that affirms the reliability of the document.

### **III. CONCLUSIONS OF LAW**

The Regulation 31 DCMR 819.4, states:

Taxicab operators shall, at all times when on duty and not engaged, furnish service on demand to any person, except as provided for in § 819.5<sup>1</sup>.

The Government proved by a preponderance of evidence that Respondent violated the Regulation as charged in the Notice of Infraction for the reasons discussed above. I credit entirely Ms. Walsh and Ms. Verbena's testimony that on August 23, 2011, Respondent refused to take them to Virginia. A fine of \$250 is prescribed for a violation of 31 DCMR 819.4 31 which is the fine requested by Petitioner. 31 DCMR 825. Having held Respondent liable, I will impose the authorized fine of \$250.

### **IV. ORDER**

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<sup>1</sup> 31 DCMR 819.5 states in pertinent part:

No taxicab operator shall refuse to transport a person while holding his or her taxicab for hire, unless:

- (a) Previously engaged;
- (b) Unable or forbidden by the provisions of this title to do so;
- (c) The operator has reason to believe the person is engaged in a violation of law; or
- (d) The operator has cause to fear injury to his or her person, property or taxicab.

Based upon the foregoing findings of fact and conclusions of law and the entire record in this matter, it is, this \_\_\_\_\_ day of January, 2012:

**ORDERED**, that Respondent is **LIABLE** for violating the Regulation as charged in the Notice of Infraction; and it is further

**ORDERED**, that Respondent shall pay a fine in the amount of **TWO HUNDRED FIFTY DOLLARS (\$250)** in accordance with the attached instructions within 35 days of the mailing date of this Order (30 days plus 5 days service time pursuant to 31 DCMR 702.5 and 1 DCMR 2811.5), unless the time period is extended; and it is further

**ORDERED**, any party served with a final order may file a motion for reconsideration within ten (10) calendar days of service of the final order in accordance with 1 DCMR 2828. When the final order is served by mail, five (5) calendar days are added to the 10 day period in accordance with 1 DCMR 2812.5; and it is further

**ORDERED**, that the reconsideration and appeal rights of any party aggrieved by this Order are stated below.

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Claudia A. Crichlow  
Administrative Law Judge

