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5-26-2011

DEPARTMENT OF SAFETY vs. One 1997
Chevrolet Tahoe VIN: 3GNEK18R4VG133640
And \$259 in U.S. Currency, Seized From: Corey
Clayton, Date of Seizure: November 17, 2010,
Claimant: Alvin Clayton, Lien Holder: None

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**BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF SAFETY**

DEPARTMENT OF SAFETY

v.

**One 1997 Chevrolet Tahoe
VIN: 3GNEK18R4VG133640
And \$259 in U.S. Currency
Seized From: Corey Clayton
Date of Seizure: November 17, 2010
Claimant: Alvin Clayton
Lien Holder: None**

**DOCKET NO: 19.01-112668J
D.O.S. Case No. L0449**

INITIAL ORDER AND NOTICE OF DEFAULT

This matter was heard in Memphis, Tennessee, on May 26, 2011, before Steve R. Darnell, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Attorney Joe Bartlett represented the Department of Safety.

The subject of this hearing was the proposed forfeiture of the subject property for its alleged use in violation of T.C.A. §53-11-201 et seq. and §40-33-201 et seq.

Alvin Clayton, Claimant, did not appear at the hearing. The Department therefore moved for an initial order of **default** and dismissal of the claim. The motion was **granted** based upon the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Claimant was sent notice of the hearing by certified mail at his address of record. A copy of the postal green card shows Claimant, Alvin Clayton signed for the notice on April 19, 2011.
2. Claimant failed to appear on the day of the hearing. Nor did an attorney appear on Claimant's behalf.
3. The Department had its witnesses available and was ready to go forward to prove its case.

CONCLUSIONS OF LAW AND ANALYSIS

1. Department of Safety Rule 1340-2-2-.17(1) provides, in relevant part:
 - (d) No default shall be entered against a claimant for failure to attend except upon proof, by the filing of the return receipt card, that the Legal Division has given notice of hearing.
 - (e) Upon default by a party, an administrative judge may enter either an initial default order or an order for an uncontested proceeding.
2. Department of Safety Rule 1340-2-2-.17(2) states, in relevant part:

Upon a default by a claimant, a claimant's claim shall be stricken by initial default order.
3. The Department's motion for default being granted, it is therefore **ordered** that Claimant's **claim be stricken**. The claim being stricken, it is as if no claim had ever been filed, which constructively evokes T.C.A. §40-33-206(c). That section states: "If a claim . . . is not filed with the applicable agency within the time specified . . . the seized property shall be forfeited and disposed of as provided by law."

IT IS THEREFORE ORDERED that the above described vehicle and \$259 in U.S. currency be forfeited to the seizing agency.

This Initial Order entered and effective this 8th day of July, 2011.

Steve R. Darnell
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 8th day of July, 2011.



Thomas G. Stovall, Director
Administrative Procedures Division