



5-24-2011

DEPARTMENT OF SAFETY vs. One 2001 Kia
Sportage VIN: KNDJA723115039119, Seized
From: Lisa M. Cooper, Date of Seizure: August 11,
2010, Claimant: Lisa M. Cooper, Lien Holder:
None

Follow this and additional works at: http://trace.tennessee.edu/utk_lawopinions

 Part of the [Administrative Law Commons](#)

This Initial Order by the Administrative Judges of the Administrative Procedures Division, Tennessee Department of State, is a public document made available by the College of Law Library, and the Tennessee Department of State, Administrative Procedures Division. For more information about this public document, please contact administrative.procedures@tn.gov

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

IN THE MATTER OF:

DEPARTMENT OF SAFETY

v.

**One 2001 Kia Sportage
VIN: KNDJA723115039119
Seized From: Lisa M. Cooper
Date of Seizure: August 11, 2010
Claimant: Lisa M. Cooper
Lien Holder: None**

**DOCKET NO: 19.05-111325J
D.O.S. Case No. K7812**

INITIAL ORDER AND NOTICE OF DEFAULT

This matter was heard in Memphis, Tennessee, on May 24, 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. §55-10-401, & §55-10-403, et seq. and §40-33-201 et seq.

Lisa M. Cooper, 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 her address of record. A copy of the postal green card shows R. Roberts 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 is 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.

A handwritten signature in black ink that reads "Thomas G. Stovall". The signature is written in a cursive style with a large, looped initial 'T' and 'S'.

Thomas G. Stovall, Director
Administrative Procedures Division