



6-5-2012

TENNESSEE DEPARTMENT OF SAFETY vs.
One 2003 Hurst Flatbed Traile, VIN No.:
1H9T6232731057012, Seized From: Bob Floyd,
Date of Seizure: Oct. 12,. 2011, Claimant: Bob
Floyd, Lien Holder: None noted

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

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:

Bob (M0739) Floyd

**TENNESSEE DEPARTMENT OF
SAFETY**

v.

**One 2003 Hurst Flatbed Trailer
VIN NO.: 1H9T6232731057012
Seized From: Bob Floyd
Date of Seizure: Oct. 12., 2011
Claimant: Bob Floyd
Lien Holder: None noted**

**DOCKET NO: 19.03-117318J
(D.O.S. Case No. M0739)**

INITIAL DEFAULT ORDER

This matter was heard in Knoxville, on June 5, 2012, before the Honorable Dewayne Bunch, Administrative Law Judge, assigned by the Secretary of State, and sitting for the Commissioner of the Tennessee Department of Safety. Robert Ingram, Staff Attorney for the Department of Safety, represented the State.

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.

Bob Floyd, Claimant, did not appear at the hearing. The State therefore moved for an initial **default** and dismissal of the case. 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 Cindy Richmond signed for the notice on May 7, 2012.
2. Claimant failed to appear on the day of the hearing. Nor did an attorney appear on Claimant's behalf.
3. The State 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 State'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.”

This Initial Order entered and effective this 28 day of August, 2012

Dewayne Bunch
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 28 day of August, 2012



Thomas G. Stovall, Director
Administrative Procedures Division