

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

WEST FOUNTAIN AUTO SALES & BODY, INC. :

:

VS. :

:

CA. NO.:

:

DEPARTMENT OF BUSINESS REGULATION FOR THE :

:

STATE OF RHODE ISLAND, ELIZABETH M. TANNER :

:

In her capacity as Director and CATHERINE WARREN :

:

In her capacity as a hearing officer for the Department
of Business Regulation. :

COMPLAINT
(ADMINISTRATIVE APPEAL)

1. Plaintiff, West Fountain Auto Sales & Body, Inc., is a duly registered Corporation authorized to transact business in the State of Rhode Island.
2. Defendant, Department of Business Regulation for the State of Rhode Island (DBR), is an administrative agency of the State of Rhode Island.
3. Defendant, Elizabeth M. Tanner, is made a Defendant in her capacity as Director of the Department of Business Regulation.
4. Defendant, Catherine Warren, is made a Defendant herein in her capacity as a hearing officer for the Department of Business Regulation.
5. On December 13, 2018, the Defendant DBR issued an Order to Show Cause to the Plaintiff in regards to the Plaintiff's automobile body repair license pursuant to RIGL 5-38-1 et seq.
6. Defendant, Catherine Warren, was appointed as hearing officer by the Director of the DBR.
7. Defendant, Catherine Warren, held a full hearing on the Order to Show Cause on July 29, 2019, September 10, 2019 and October 28, 2019.
8. On January 23, 2020, Defendant Catherine Warren issued a decision suspending the Plaintiff's automobile body repair license for "at least 30 days".
9. The hearing officer also imposed an administrative penalty of \$400.00.
10. The hearing officer also requires the Plaintiff to provide the DBR with "an acceptable remedial plan for its repair work."
11. The Defendant Director, Elizabeth Tanner, adopted the Hearing Officer's decision on January 29, 2020.

12. Plaintiff is aggrieved by a decision of the Defendant Department of Business Regulation through the Director, dated January 29, 2020 to suspend the Plaintiff's license for at least 30 days and the other stipulations attached to the decision. A copy of the Decision is attached hereto as Exhibit A.
13. Plaintiff is an aggrieved party pursuant to RIGL 42-35-15 in that decision denies the Plaintiff its right to an automobile body repair license and the undue burden of at least a 30 day suspension for an alleged violation.
14. Plaintiff brings the administrative appeal pursuant to RIGL 42-35-15 because the decision is:
 - a. In violation of constitutional or statutory provisions;
 - b. In excess of the statutory authority of the agency;
 - c. Made upon unlawful procedure;
 - d. Affected by other error of law;
 - e. Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and
 - f. Arbitrary or capricious or characterized by abusive discretion or clearly unwarranted exercise of discretion.
15. Without limitation as to the foregoing, the decision lacked the required findings and the record would not support the required findings in any event.

WHEREFORE, Plaintiff demands judgment reversing the decision and awarding it such other and further relief that this Court may deem appropriate.

Plaintiff,
WEST FOUNTAIN AUTO SALES & BODY, INC.
By its Attorney

Law Office of Thomas E. Badway & Associates

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