



NOTICE OF DECISION

<p>TAXI AND LIMOUSINE COMMISSION</p> <p>Petitioner</p> <p>-against-</p> <p>MANUEL [REDACTED]</p> <p>[REDACTED]</p> <p>BRONX, NY 10466</p> <p>Respondent</p>	<p>Summons Number: 719 [REDACTED]</p> <p>License Number: 555 [REDACTED]</p> <p>Decision Date: 06/18/2014</p> <p>Hearing Officer: David Lee</p> <p>Respondent Representative: Terrance Cortelli, Esq.</p> <p>Petitioner Representative: Shaun Jaime</p>	<p>Summary Disposition: DISMISSED</p> <p>Points (Total): 0</p> <p>Suspension/Revocation: Not applicable</p> <p>Compliance:</p> <p>Total Fine Amount: 0</p>
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Charge Code	Decision Code	Penalty Amount	Points
19-506(B)(1)	Closed, Dismissed at Hearing	\$0	0

Hearing Officer Findings:

The officer testified that he observed the respondent driver/owner stopped in his vehicle in front of a store. He testified that he continued to watch the respondent, when a woman came out of the store and hail for taxi by waiving her hand. The officer testified that he saw the respondent pull up to the woman and the woman got into the back seat. The officer testified that he followed the vehicle for approximately 1 mile. The officer testified that he was right behind the respondent's vehicle and he saw the woman hand the respondent money while still in the car. The officer testified the the woman told him that the respondent was a taxi and not a relative. The officer testified that the respondent utter to him that he was in a romantic relationship with the woman and he did not want her husband to see her in the front.

The respondent testified that he lives in the same building as the female passenger. He said that he drove the passenger as a favor. He said that the woman did not want to sit in the front seat because she did not want her husband to see her,.

The woman/passenger/witness testified in Spanish. She stated that she does not speak any English. However at one point the respondent's attorney questioned her directly and she answered without the assistance of the interpreter. She

David Lee
 Hearing Officer

stated that she asked the respondent to driver her to the store; they live in the same building; she did not give the respondent any money and she told the officer that he was not a taxi. The witness also testified that she did not want to sit in the front seat because she did not want anyone to think that she was dating the respondent. The respondent testified that he is 88 years old. She also said that she went to two stores.

I find that in this case the passenger did give the respondent money, not to hire him as a taxi, but as a token of appreciation. However I find that the respondent was not working for-hire in that he did not agree to drive the respondent, expecting payment. I find the respondent's testimony to be credible whe he stated that he was not doing anything, and when the passenger asked him for a ride he agreed to do so, and not expecting any money. The respondent is an 88 year old man, and I believe that he was doing a favor for his neighbor. It was verified that both live in the same building, and perhaps the respondent was smitten by the passenger which is why the passenger did not want to sit in the front.

The summons is dismissed as I did not find that a prima facie case of for-hire activity was established. I find that the mere exchange of money did not establish the respondent was acting as a for-hire driver. I find that the mere act of the passenger sitting in the back is not evidence of for-hire activity. These actions can be indications of for-hire activity, but I find in this case that the totality of the facts presented do not establish that the respondent was acting for-hire.



David Lee
Hearing Officer