



Appeal No. 10277692C

TLC v. Liu, Miao

November 12, 2025

APPEAL DECISION

The appeal of Petitioner, Taxi & Limousine Commission (TLC), is denied. Petitioner appeals from a decision by Judicial Hearing Officer (JHO) M. Du, dated August 22, 2025, dismissing a charge of TLC Rule 80-12(e), found in Title 35 of the Rules of the City of New York (RCNY), for threats, harassment, or abuse committed while performing a licensee’s duties. After a full review of the record, the Tribunal finds:

Table with 5 columns: Summons, Law Charged, Hearing Determination, Appeal Determination, Penalty. Row 1: 10277692C, TLC Rule 80-12(e), Dismissed, Affirmed - Dismissed, \$0

In the unsworn summons, Petitioner alleged that on May 18, 2025, at 8:00 p.m. at 168th Street and Lithonia Avenue, Queens, Respondent parked his for-hire vehicle (FHV) in front of the complaining witness’s (CW) house, interacted with and threatened to kill her dog, who was in the yard, and said CW and her family were dogs. After the telephone hearing, held on August 22, 2025, the JHO dismissed the charge, finding that Respondent was not performing the duties and responsibilities of a licensee as he had exited his FHV when the incident occurred, and thus, was not engaged in for-hire activity. On appeal, Petitioner contends that Respondent was performing his duties and responsibilities as a licensee as the FHV was “involved” and Respondent’s conduct occurred on a public sidewalk. Respondent did not answer the appeal.

The Tribunal affirms the JHO’s decision dismissing the charge. TLC Rule 80-12(e) limits a TLC driver’s liability by providing: “While performing the duties and responsibilities of a Licensee, a Licensee must not threaten, harass, or abuse any person . . .” (Emphasis added.) The proper focus in determining whether a respondent was performing the duties and responsibilities of a TLC licensee is on “whether a TLC-licensed vehicle is involved and the public nature of the conduct.” See TLC v. Antonio Salazar, Appeal No. 10111123C (May 2, 2019) at fn. 6 (finding respondent in violation of TLC Rule 80-12(e) where he operated FHV to follow female complaining witness who earlier rebuffed him and yelled insult at her; occurred at a main intersection with traffic light). Here, the Tribunal finds that one of the essential elements is not present as Respondent’s FHV was not involved in the dispute. Respondent had parked and exited his FHV in front of CW’s home, close to his own home, before the dispute began. There was no testimony Respondent was in or was operating his vehicle when the dispute occurred, or even that the dog’s barking was caused by Respondent parking his vehicle. That Respondent recently had exited his FHV did not, on these facts, involve it in the dispute. The dispute was about a barking dog in Respondent’s residential neighborhood.

However, the Tribunal notes that the JHO erred in finding that Respondent was not performing the duties and responsibilities of a licensee because he was not engaged in for-hire activity while merely walking on a sidewalk. To the contrary, the Tribunal has found that engaging in for-hire activity or being on duty are not prerequisites for being found to be performing the duties and responsibilities of a licensee. See TLC v. Abdoulaye Kaba, Appeal No. 71221337A (August 8, 2019) (lack of earnings during incident time may have proved respondent was not working for hire but not operating for hire did not excuse cited conduct); TLC v. Cetoute Booz, Appeal No. 429211 (August 18, 2008) (finding error in dismissal of former TLC Rule 2-60(a) charge on ground respondent was off-duty). Nonetheless, the language in TLC Rule 80-12(e) is limiting,

and in an appropriate case, such as this one, where the TLC-licensed vehicle was not involved, no violation will be found.

In the factually inapposite cases cited by Petitioner on appeal, TLC drivers were found in violation where their TLC-licensed vehicles were part of the conduct. *See TLC v. Hakan Cayli*, Appeal No. 10195997C (May 30, 2023) (respondent in parked taxicab insulted another driver's parking by cursing at her); *Antonio Salazar*, 10111123C (respondent followed female complaining witness in his FHV and yelled insult at her after she rebuffed his earlier overtures); *TLC v. Ellie Merhy*, Appeal No. 10075098C (May 1, 2017) (respondent used TLC-licensed vehicle in attempt to block complaining witness from parking in front of restaurant, hurled sexual vulgarity about witness's wife); *TLC v. Bouchaib Essaheb*, Appeal No. 10022695C (October 14, 2014) (respondent operating green street hail livery blocked complaining witness's driveway while waiting to pick up respondent's son from school; respondent backed up until he almost hit witness's car and cursed at witness); *Cetoute Booz*, 429211 (reversing dismissal and remanding for new hearing where respondent cursed at other customers at gas station).

Accordingly, the Tribunal affirms the JHO's decision dismissing the TLC Rule 80-12(e) charge.

*By: OATH Appeals Division*