

STATE OF VERMONT  
WASHINGTON COUNTY, SS.

FILED

2003 JAN 10 A 8:54

DAVID Y. SMITH

v.

DEPARTMENT OF MOTOR  
VEHICLES

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WASHINGTON SUPERIOR COURT  
Docket No. 117-2-02 Wncv

SUPERIOR COURT

ORDER

This matter is before the court on the appeal of David Y. Smith from a decision resulting from a Department of Motor Vehicles hearing to suspend his motor vehicle driver's license. The court has reviewed the record of the proceedings before the Department of Motor Vehicles, and the briefs filed on behalf of the Appellant and the Appellee.

This is an appeal governed by V.R.C.P. 74 ("Appeals from Decisions of Governmental Agencies"). As such, this appeal does not call for a de novo hearing and decision by the court. Rather, the court reviews the record of the proceedings below. The findings of the administrative agency will not be set aside unless they are clearly erroneous. See *Morton Bldgs., Inc. v. Vermont Dep't of Taxes*, 167 Vt. 371, 374 (1997).

The findings of fact made by the hearing examiner on January 25, 2002 are supported by the evidence in the record, and the conclusions of the hearing examiner on the same date, resulting in the decision to suspend Appellant's license, are supported by the findings of fact. The record shows that the hearing examiner had a valid basis for the suspension of Appellant's license. The arguments that Mr. Smith has made in his memorandum, which the court has read although it was not filed by his attorney of record, do not show that the hearing examiner erred with respect to either the facts or the law in making the decision.

Accordingly, the decision of the Department of Motor Vehicles is *affirmed*.

Date at Montpelier, Vermont this 9<sup>th</sup> day of January, 2003.

Mary Miles Teachout  
Mary Miles Teachout  
Superior Court Judge