



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

TriMet vs. Reba Pitts

CASE NO. 3100229
(TriMet Exclusion Number 186173)

HEARING DATE: June 22, 2010

APPEARANCES:

Ms. Reba Pitts, Excluded Party

Inspector Larry Boltjes, for TriMet

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Timelines: The Hearings Officer finds the following concerning the Notice of Exclusion being issued:

TriMet issued the Notice of Exclusion to Ms. Reba Pitts on June 12, 2010. The case was forwarded to the City of Portland Hearings Office on June 15, 2010. The Hearings Office mailed a hearing notice to the parties on June 15, 2010, within the time prescribed in the TriMet Code. The notice contained the required information concerning Ms. Pitts' rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Ms. Pitts when she was excluded. The notice did reference the violating conduct/applicable code provision.

Stays: The exclusion was subject to an automatic stay upon being issued.

Mitigating and/or Aggravating Factors: The Hearings Officer finds no mitigating or aggravating factors existed when the Notice of Exclusion was issued.

Probability that the excluded individual engaged in the conduct supporting the exclusion: Ms. Pitts appeared at the hearing and testified on her own behalf. TriMet Inspector Boltjes appeared at the hearing and testified on behalf of TriMet. The Hearings Officer makes this decision based upon the testimony of Ms. Pitts and Inspector Boltjes and the documents admitted into the evidentiary record (Exhibits 1 through and including 6).

Ms. Pitts received a TriMet Notice of Exclusion on June 12, 2010 for allegedly violating TriMet Code ("TMC") 28.15 D (Activation of the Emergency Stop Device Except in an Emergency). A person violates TMC 28.15 D

(Activation of the Emergency Stop Device Except in an Emergency) if the person activates the 'emergency stop' device of a District Vehicle in the absence of an emergency.

Inspector Boltjes testified that on June 12, 2010, he contacted a Max train operator who informed him that a passenger, Ms. Pitts, had activated the emergency stop device. Inspector Boltjes stated that Ms. Pitts admitted activating the emergency stop device so that she could get off of the train.

Ms. Pitts testified that on June 12, 2010, she was on a Max train with friends when she saw a #12 bus in close proximity. Ms. Pitts, through urging of her friends, pulled the emergency stop device so that she could get the Max train doors to open and she could get on the #12 bus. Ms. Pitts stated that there was no emergency; only that she wanted to get off the train to board the #12 bus.

The Hearings Officer finds that the testimony of Inspector Boltjes and Ms. Pitts was consistent. The Hearings Officer finds that it is more probable than not that on June 12, 2010, Ms. Pitts did activate the emergency stop device when no emergency existed. The Hearings Officer finds it is more probable than not that on June 1, 2010, Ms. Pitts did violate TMC 28.15 D (Activation of the Emergency Stop Device Except in an Emergency). The Hearings Officer finds that the Notice of Exclusion issued to Ms. Reba Pitts on June 12, 2010 is valid.

Special Exceptions: Inspector Boltjes, during the hearing, requested that the term of the exclusion be reduced from 90 days to 30 days. Inspector Boltjes expressed no concerns with Ms. Pitts receiving a qualified exclusion to travel to/from her residence and place of schooling (Tigard High School). The Hearings Officer finds it appropriate to reduce the term of the exclusion from 90 days to 30 days. The Hearings Officer finds Ms. Pitts is transit dependent. The Hearings Officer finds that Ms. Pitts needs access to TriMet bus lines #12 and #76, Monday through Thursday from 7:00 a.m. to 1:30 p.m., to travel to/from her residence and school.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer modifies the Notice of Exclusion issued to Ms. Reba Pitts on June 12, 2010.

2. Length of the Exclusion:

The exclusion shall become effective with this Order, on June 28, 2010, and shall conclude on July 27, 2010 at 5:00 p.m.

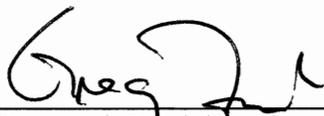
3. Scope of the Exclusion:

Ms. Pitts shall have access to TriMet bus lines #12 and #76, Monday through Thursday from 7:00 a.m. to 1:30 p.m., to travel to/from her residence and school.

4. This order has been mailed to the parties on June 22, 2010, not more than five (5) business days following the hearing, and will become final on June 28, 2010.

5. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: June 22, 2010



Gregory J. Frank, Hearings Officer

GJF:gj/rs

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Appeal Form page 2	Turner, Anna	Received
2	TriMet Fare Inspection System print out	Turner, Anna	Received
3	Notice of Exclusion	Turner, Anna	Received
4	Mailing list	Hearings Office	Received
5	Hearing notice	Hearings Office	Received
6	Statement of Rights	Hearings Office	Received