



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

TriMet vs. Treaunna Sierra Roberts

tb

CASE NO. 3120177

(TriMet Exclusion Number 184665)

HEARING DATE: April 19, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

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. Treaunna Sierra Roberts on March 16, 2012. The case was forwarded to the City of Portland Hearings Office on March 28, 2012. The Hearings Office mailed a Notice of Hearing and Interim Order extending the stay on the exclusion to the parties on March 28, 2012, within the time prescribed in the TriMet Code. The notice contained the required information concerning Ms. Roberts' rights in the hearing process.

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

Stays: The exclusion was stayed on the Hearings Officer's direction on March 28, 2012.

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: TriMet has the burden to demonstrate that it is more probable than not that the conduct forming the basis to issue the Notice of Exclusion occurred. A written report is in the record which is represented to have been prepared by the officer issuing the Notice of Exclusion. The officer's written report stated, in summary, that on March 16, 2012, the officer was at Delta Park Vanport when he observed a female smoking a cigarette. The officer writes that the female, later identified as Ms. Roberts, saw him and walked away from the platform into the parking area and lit another cigarette. The officer writes that he approached Ms. Roberts and she admitted that she had been smoking in a posted "No Smoking" area.

Ms. Roberts was issued a Notice of Exclusion on March 16, 2012, for allegedly violating TMC 28.15 A.(2) [Smoking]. A person violates TMC 28.15 A.(2) if the person smokes tobacco or any other substance, carries any lighted or smoldering substance, in any form on a TriMet Vehicle or within any space or area where posted signage prohibits smoking.

The Hearings Officer finds the written statement of the officer to be credible and to accurately reflect the events leading up to the issuance of the Notice of Exclusion to Ms. Roberts on March 16, 2012. The Hearings Officer finds it is more probable than not that on March 16, 2012, Ms. Roberts violated TMC 28.15A2 by carrying a lighted substance while on TriMet property. The Hearings Officer finds the Notice of Exclusion issued to Ms. Roberts on March 16, 2012, is valid.

Special Exceptions: The Hearings Officer finds there is no evidence in the record to suggest that Ms. Roberts is disabled or transit dependent.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer sustains the Notice of Exclusion issued to Ms. Treanna Sierra Roberts on March 16, 2012.

2. Length of the Exclusion:

The exclusion shall become effective with this Order, on April 25, 2012, and shall conclude on May 25, 2012, at 5:00 p.m.

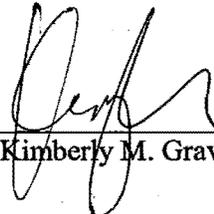
3. Scope of the Exclusion:

The scope of the exclusion shall be as described in the Notice of Exclusion.

4. This order has been mailed to the parties on April 20, 2012, not more than five (5) business days following the hearing, and will become final on April 25, 2012.

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

Dated: April 20, 2012



Kimberly M. Graves, Hearings Officer

KMG:rs

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Appeal form page 2	Turner, Anna	Received
2	TriMet Fare Inspection System printout	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