



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

TriMet vs. Sassan M. Rezaee

CASE NO. 3120280

(TriMet Exclusion Number 189109)

HEARING DATE: June 19, 2012

APPEARANCES:

Mr. Sassan Rezaee, Excluded party

Supervisor Donald Keller, on behalf of TriMet

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 Mr. Sassan M. Rezaee on May 15, 2012. The case was forwarded to the City of Portland Hearings Office on May 29, 2012. The Hearings Office mailed a Notice of Hearing and Interim Order extending the stay on the exclusion to the parties on June 1, 2012, within the time prescribed in the TriMet Code. The notice contained the required information concerning Mr. Rezaee's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Mr. Rezaee when he was excluded. The notice referenced the violating conduct/applicable code provision.

Stays: The exclusion was stayed on the Hearings Officer's direction on June 1, 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. Mr. Keller appeared and testified on behalf of TriMet. Mr. Keller testified that he was conducting fare inspections at the Kings Hill MAX platform on May 15, 2012, when he contacted Mr. Rezaee. Mr. Keller testified that he asked Mr. Rezaee for proof of fare payment, and Mr. Rezaee indicated that he had not purchased a fare.

Mr. Rezaee received a Notice of Exclusion on May 15, 2012, for allegedly violating TMC 29.15 (fare violation). A person violates TMC 29.15 (fare violation) if the person rides a TriMet vehicle without having, in his possession, proof of purchase of a valid fare. Also, a person violates TMC 29.15 (fare violation) if the person, upon request of a TriMet representative, fails to display for the representative's view, proof of purchase of a valid fare.

Mr. Rezaee appeared at the hearing. Mr. Rezaee stated that he understands that inexperience is not an excuse, but he is an inexperienced MAX rider and did not know what the boundaries of the fare-free zone were. Mr. Rezaee indicated that he had concerns about the behavior of one of the TriMet Inspectors who was working with Mr. Keller. Mr. Rezaee was directed to contact TriMet with any concerns about a TriMet employee's behavior. Exhibits 1 through, and including, 6 were received into the record without objection.

The Hearings Officer finds the testimony of Mr. Keller to be credible and accurately reflects the events leading to the issuance of the Notice of Exclusion to Mr. Rezaee on May 15, 2012. The Hearings Officer finds that it is more probable than not that on May 15, 2012 Mr. Rezaee did not display for viewing by the TriMet representative, while riding a Max train outside of the fareless area, proof of purchase of a valid fare. The Hearings Officer finds it is more probable than not that Mr. Rezaee, on May 15, 2012, did violate TMC 29.15 (fare violation). The Hearings Officer finds the Notice of Exclusion issued to Mr. Rezaee on May 12, 2012 is valid.

Special Exceptions: The Hearings Officer finds there is sufficient evidence in the record to suggest that Mr. Rezaee is transit dependent and needs access to TriMet to get to and from school. Mr. Rezaee shall be permitted on Mondays between 9:00 a.m. and 6:00 p.m. to ride bus #76 or 78 between Hall/Allen and the Beaverton Transit Center, and the Red or Blue line MAX train between the Beaverton Transit Center and downtown Portland. Mr. Rezaee may also ride, during the above listed time, the Yellow or Green line MAX train within downtown Portland.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer modifies the Notice of Exclusion issued to Mr. Rezaee on May 12, 2012.

2. Length of the Exclusion:

The exclusion shall become effective with this Order, on June 27, 2012, and shall conclude on July 27, 2012 at 5:00 p.m.

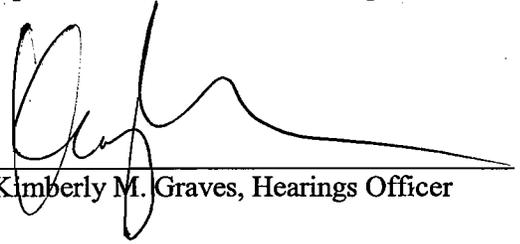
3. Scope of the Exclusion:

Mr. Rezaee shall be permitted on Mondays between 9:00 a.m. and 6:00 p.m. to ride bus #76 or 78 between Hall/Allen and the Beaverton Transit Center, and the Red or Blue line MAX train between the Beaverton Transit Center and downtown Portland. Mr. Rezaee may also ride, during the above listed time, the Yellow or Green line MAX train within downtown Portland.

4. This order has been mailed to the parties on June 21, 2012, not more than five (5) business days following the hearing, and will become final on June 27, 2012.

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

Dated: June 21, 2012



Kimberly M. Graves, Hearings Officer

KMG:c1/c2

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 |