



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

APPEAL OF SHYANNA DAVIS

CASE NO. 1120084

DESCRIPTION OF VEHICLE: Infiniti M35 (MS MDD800)

DATE OF HEARING: May 10, 2012

APPEARANCES:

Ms. Shyanna Davis, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Davis appeared at the hearing and testified on her own behalf. No person appeared at the hearing and testified on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Ms. Davis and the documents admitted into the evidentiary record (Exhibits 1 through and including 10).

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice if the vehicle is illegally parked in a posted restricted space/zone.

Ms. Davis testified that on May 8, 2012, she parked her vehicle (Infiniti – Mississippi MDD 800; hereafter the "Vehicle") in the vicinity of SW Oak and SW Fourth, in the City of Portland. Ms. Davis stated that she does not recall seeing any temporary no parking signs present at the time she parked her

Vehicle on May 8, 2012. Ms. Davis stated that when she returned to the location where she parked the Vehicle that she observed a temporary no parking sign in close proximity to where she parked the Vehicle.

Ms. Davis testified that she believed that temporary no parking signs are movable. Ms. Davis stated that it is possible that the sign she observed when she attempted to retrieve the Vehicle on May 8, 2012, may have been returned (moved) to the location after she parked the Vehicle. Ms. Davis stated that she parked the Vehicle, on May 8, 2012, at approximately 11:00 a.m. and the Vehicle was not cited (and ordered for tow) for over two hours. Ms. Davis stated that the location where she parked the Vehicle on May 8, 2012, is continuously inspected by "meter maids" and that if a temporary no parking sign had been in place when she parked it is unlikely that more than two hours would have passed before she received a citation.

The City of Portland Parking Enforcement Officer ("Officer") submitted various documents into the evidentiary record (Exhibits 5 through and including 10). Exhibit 5, a report submitted by the Officer, indicates that the temporary no parking sign, in close proximity to the Vehicle on May 8, 2012, was placed and verified on April 20, 2012. The Officer states, in Exhibit 5, that the temporary no parking restriction, for the location where the Vehicle was parked, ran from April 23, 2012, to May 18, 2012. Exhibit 6 is a copy of a citation issued to the Vehicle on May 8, 2012. Exhibit 6 indicates the temporary no parking sign restricted parking Monday through Friday from 7 a.m. to 4 pm. Exhibit 6 indicates that the Vehicle was cited at 1:16 p.m. on May 8, 2012.

Exhibit 7 contains four photographs. Three of the photos, as confirmed by Ms. Davis, show the Vehicle. The photo in the upper left corner of Exhibit 7 shows a temporary no parking sign. The photo in the lower left corner shows the temporary no parking sign in close proximity to the front of the Vehicle. Exhibit 8 contains a single photograph (enlargement of the photo in the upper left corner of Exhibit 7). Exhibit 9 contains a single photograph (enlargement of the photo in the lower left corner of Exhibit 7).

Exhibit 10 is a copy of a "permit to use dedicated street area" as issued by the City of Portland Bureau of Transportation. Exhibit 10 references the parking space where the Vehicle was parked on May 8, 2012. Exhibit 10 indicates that a temporary no parking sign was placed and verified, at the space where the Vehicle was parked on May 8, 2012, at 3:48 p.m. on April 20, 2012.

The Hearings Officer finds the testimony of Ms. Davis to be credible. The Hearings Officer finds, based upon Ms. Davis' testimony, that she did not see a temporary no parking sign in close proximity to the Vehicle on May 8, 2012.

The Hearings Officer finds the evidence supplied by the Officer to be credible and persuasive. The Hearings Officer finds that a temporary no parking sign was placed on April 20, 2012, at 3:48 p.m. at the front end of the space where the Vehicle was parked. (Exhibit 10) The Hearings Officer finds that a temporary no parking sign was present at the time the Vehicle was ordered towed. (Exhibits 5, 7, 8 and 9)

The Hearings Officer finds that a temporary no parking sign was placed in a timely manner in close proximity to the location where the Vehicle was parked on May 8, 2012. The Hearings Officer finds that the temporary no parking sign clearly and conspicuously identified the space where the Vehicle was parked on May 8, 2012, as being restricted and not available for general public parking. The Hearings Officer finds that the Officer who ordered the Vehicle towed on May 8, 2012, followed all relevant

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laws/rules. The Hearings Officer finds the City of Portland ordered tow of the Vehicle on May 8, 2012, is valid.

ORDER:

1. The City of Portland ordered tow of the Vehicle on May 8, 2012, is valid.
2. All towing and storage charges against the Vehicle, and an administrative fee, if applicable, shall remain the responsibility of Ms. Davis.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: May 11, 2012
GJF:cl



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 7540

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Davis, Shyanna	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA08658332	Parking Enforcement	Received
7	Four Photos	Parking Enforcement	Received
8	Sign Photo	Parking Enforcement	Received
9	Car Photo	Parking Enforcement	Received
10	PBOT Permit	Parking Enforcement	Received