



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

TriMet vs. Delon D. Robinson

CASE NO. 3120561

(TriMet Exclusion Number 209880)

HEARING DATE: December 4, 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 Mr. Delon D. Robinson on November 14, 2012. The case was forwarded to the City of Portland Hearings Office on November 21, 2012. The Hearings Office mailed a Notice of Hearing to the parties on November 21, 2012, within the time prescribed in the TriMet Code. The notice contained the required information concerning Mr. Robinson's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Mr. Robinson when he was excluded. The notice referenced 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: 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: "Rode the train from gateway. Contacted Mr. Robinson who did not have fare. Issued this exclusion as well as exhibit D." The Notice of Exclusion indicates that the contact occurred on November 14, 2012.

Mr. Robinson received a Notice of Exclusion on November 14, 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. Robinson was mailed a Notice of Hearing on November 21, 2012. The Notice was returned by the U.S. Mail Service. Mr. Robinson did not contact the Hearings Office prior to the hearing requesting that the hearing be rescheduled. Mr. Robinson did not appear at the hearing. The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 7).

The Hearings Officer finds the written statement from the TriMet representative, as quoted above, to be credible and accurately reflects the events leading to the issuance of the Notice of Exclusion to Mr. Robinson on November 14, 2012. The Hearings Officer finds that it is more probable than not that on November 14, 2012 Mr. Robinson did not display for viewing by the TriMet representative, proof of purchase of a valid fare. The Hearings Officer finds it is more probable than not that Mr. Robinson, on November 14, 2012, did violate TMC 29.15 (fare violation). The Hearings Officer finds the Notice of Exclusion issued to Mr. Robinson on November 14, 2012 is valid.

Special Exceptions: The Hearings Officer finds there is no evidence in the record to suggest that Mr. Robinson 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 Mr. Robinson on November 14, 2012.

2. Length of the Exclusion:

The exclusion shall become effective with this Order, on December 11, 2012, and shall conclude on January 10, 2013.

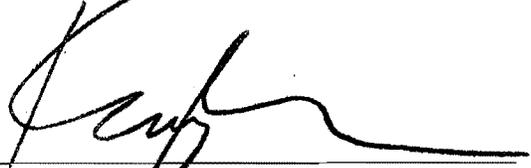
3. Scope of the Exclusion:

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

4. This order has been mailed to the parties on December 6, 2012, not more than five (5) business days following the hearing, and will become final on December 11, 2012.

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

Dated: December 6, 2012

  
Kimberly M. Graves, Hearings Officer

KMG:c1/m2

Enclosure

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
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
7	Returned Mail - Hearing Notice - Verified	Hearings Office	Received