



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

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**HEARINGS OFFICER'S ORDER**

APPEAL OF JOHN T. KIM

CASE NO. 1090207

DESCRIPTION OF VEHICLE: Chevrolet Express Van (OR 943BNJ)

DATE OF HEARING: October 1, 2009

APPEARANCES:

Mr. John T. Kim, Appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer makes this decision based upon Mr. Kim's testimony and the exhibits received into the evidentiary record (Exhibits 1 through and including 17).

The officer's report (Exhibit 10) indicated that temporary no parking signs were posted and clearly visible on the east side of SW 20<sup>th</sup> between Morrison and Salmon. The signs read no parking anytime on September 7, 2009, subject to tow. The officer found the appellant's vehicle was parked in this zone at about 5:30 a.m. on September 7, and so had it towed.

The appellant testified that he parked his vehicle at about 8:00 p.m. on September 6, the day before the tow. He stated that he did not see any temporary no parking signs posted where he parked. The appellant suggested that the signs must have been posted after he parked his vehicle.

The Hearings Officer finds that temporary parking restrictions signs must be posted for 24 hours before a violating vehicle may be towed, if posted in a non-meter zone, or posted by 12:30 the previous day, in a metered zone. In this case, the Hearings Officer finds that the officer's report did not indicate when the signs were posted. The Hearings Officer finds that with no evidence that the signs were posted before the appellant parked his vehicle, and the appellant's testimony that he saw no signs posted, it is more probable than not that the signs were not posted. Given these circumstances, the Hearing Officer finds that this was an invalid tow. Please note the relevant city code sections below.

**16.30.210 When a Vehicle May be Towed.**

(Amended by Ordinance Nos. 172788 and 179141, effective March 23, 2005.) A vehicle may be towed and held at the expense of the owner or person entitled to possession thereof from:

A. Any public right-of-way, public park or other public place or property, when:

1. The vehicle is parked in violation of a temporary or permanent parking restriction;

D. Temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area.

E. Temporary parking restrictions may be enforced by tow if the space reservation device and/or signs are in place by 12:30 p.m. the prior day in any meter district.

The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

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

Dated: October 6, 2009  
IS:rs

  
Ian Simpson, Hearings Officer

Bureau: Police  
Tow Number: 17750

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Kim, John T.	Received
2	Tow Invoice	Kim, John T.	Received
3	Notice of Towed Vehicle	Kim, John T.	Received
4	Tow Desk printout	Hearings Office	Received
5	Tow Desk printout	Hearings Office	Received
6	Tow Desk printout	Hearings Office	Received
7	Hearing Notice	Hearings Office	Received
8	Tow Hearings Process Info. sheet	Hearings Office	Received
9	Towed Vehicle Record	Police Records	Received
10	Investigation Report	Police Records	Received
11	Duplicate copies of Exh. 1-3 rec'd by mail	Kim, John T.	Received
12	Request to reschedule	Kim, John T.	Received
13	Ticketless Confirmation	Kim, John T.	Received
14	Hearing Notice	Hearings Office	Received
15	Duplicate copies of Exh. 12 & 13 (originals)	Kim, John T.	Received
16	Photos (2 pgs)	Kim, John T.	Received
17	Copy of business card for PGE Park, John Burchim is handwritten on card	Kim, John T.	Received