



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

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HEARINGS OFFICER'S ORDER

APPEAL OF ADAM BERTAPELLE

CASE NO. 1090217

DESCRIPTION OF VEHICLE: BMW 325 (OR 750BVA)

DATE OF HEARING: October 8, 2009

APPEARANCES:

None

HEARINGS OFFICER: Mr. Ian Simpson

Mr. Bertapelle did not appear for his hearing. Mr. Bertapelle submitted a request to reschedule his hearing on October 5, 2009, and he provided date options for a rescheduled hearing. However, none of the dates corresponded with a Tuesday or Thursday. The Hearings Office holds tow appeal hearings only on Tuesdays and Thursdays (unless the vehicle is in storage). The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 5).

The Hearings Officer did not receive an officer's report for this case. The appellant indicated in his request for a hearing (Exhibit 1) that he parked his vehicle at 7:00 a.m. in a clearly marked "Pay to Park" zone. The appellant did not feed the meter because it clearly indicated that meter hours did not start until 8:00 a.m. He returned 45 minutes later to find his vehicle gone.

The Hearings Officer finds that an officer is authorized to tow a vehicle if it is parked in violation of signage. In this case, the only evidence in the record is the appellant's statement that meter parking did not begin until 8:00 a.m., and that he returned to where his vehicle was parked before 8:00 a.m. The Hearings Officer finds that there is insufficient evidence to show the tow was valid, and so it is 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;

B. Permanent parking restrictions may be enforced by tow 24 hours after placement in any meter or non meter areas.

16.30.220 Towing Without Prior Notice.

(Amended by Ordinance Nos. 165980, 170912, 176352, and 176442, effective May 1, 2002.) Any authorized officer may, without prior notice, order a vehicle towed, when:

B. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or at any time and place the vehicle is interfering or reasonably likely to interfere with the intended use of such a space, zone, or traffic lane;

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.

In order for the appellant to receive reimbursement, a complete and legible copy of the towing and storage bill must be furnished to the Hearings Officer by November 8, 2009.

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

Dated: October 9, 2009
IS: cb



Ian Simpson, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 18341

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	Bertapelle, Adam	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Request to reschedule	Bertapelle, Adam	Received