



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

LaVonne Griffin-Valade, City Auditor
1900 SW 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
Fax: (503) 823-4347
TDD: (503) 823-6868
www.portlandonline.com/auditor/hearings

HEARINGS OFFICER'S ORDER

APPEAL OF DENNIS SMITH

CASE NO. 1090236

DESCRIPTION OF VEHICLE: Honda Civic (OR CL92388)

DATE OF HEARING: November 5, 2009

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

A Notice of Hearing was sent, on October 27, 2009, to Mr. Smith at the address provided by Mr. Smith. The Notice of Hearing was not returned by the United States Postal Service. Mr. Smith did not contact the Hearings Office prior to his hearing to request a set-over or continuance. Mr. Smith did not appear at the hearing. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 6).

Exhibit 1, Mr. Smith's written request for a tow hearing contains the following narrative:

"I was parked on the SW corner of 28th and Glisan, on the street. There was no box drawn on the ground, just markings that looked like parking spaces. There was a telephone pole, which was covered in flyers for bands, with some covering the sign that the space was reserved. This was at night so it was even more difficult to see, and I never saw it. My step son D'Artagnan Heath was driving my car at this time, and I authorize him to go to the court for this matter."

Exhibit 5 is a Tow Hearing Report for this case prepared by the Parking Enforcement Officer who ordered Mr. Smith's vehicle towed on October 20, 2009. The narrative section of Exhibit 5 states:

"This tow was done on a service request. The sign in question is not covered by any obstruction as can be seen in my photo. It was directly in front of the veh also shown in my photo. The space was needed by the Flexcar and was clearly signed so I towed."

Exhibit 6 contains a copy of the Parking citation and three photographs. One photo is a close-up of the rear license plate of the towed vehicle. One photo shows the same vehicle with a telephone pole in the front with an unobstructed sign. The final photo is a close-up photo of the telephone pole and sign. The sign in the last photo states "Permitted Car Share Vehicles Only All Hours All Days."

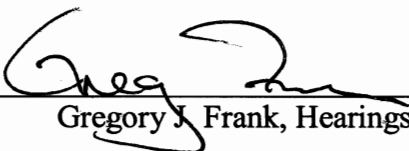
Mr. Smith's vehicle was towed on October 20, 2009 for violation of 16.20.280 B. This section of the Portland Code states that "No vehicle may park in an official/reserved zone unless authorized as indicted by the sign or markings of the zone." Portland Code permits a vehicle to be towed without prior notice to the owner if the vehicle is illegally parked in a conspicuously posted restricted zone (16.30.220 B.)

The Hearings Officer finds, based upon the evidence in the record, that the location from which Mr. Smith's vehicle was towed was conspicuously posted with a "Car Share" sign. The Hearings Officer does not find credible Mr. Smith's claim that the sign was covered and therefore not observable. The Hearings Officer finds that the Parking Enforcement Officer, in this case, followed the relevant laws/rules in ordering Mr. Smith's vehicle towed. The Hearings Officer finds the tow of Mr. Smith's vehicle on October 20, 2009 is valid. Mr. Smith's appeal is denied.

It is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

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

Dated: November 6, 2009
GJF:rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 20810

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request form	Smith, Dennis	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Citation and photos	Parking Enforcement	Received