



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

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HEARINGS OFFICER'S ORDER

APPEAL OF ASHISH MISHRA

CASE NO. 1090255

DESCRIPTION OF VEHICLE: Hyundai Elantra (OR 559EKJ)

DATE OF HEARING: November 24, 2009

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

Ashish Mishra ("Mishra") was sent a notice of hearing on November 16, 2009. The notice of hearing was not returned by the United States Postal Service. Mishra did not contact the Hearings Office prior to the hearing. Mishra failed to appear at the hearing.

Mishra filed a request for hearing (Exhibit 1) setting forth reasons that the tow of the Hyundai Elantra (OR 559EKJ) on November 5, 2009 was not valid. Mishra stated that:

"parking enforcement authority did not see my zone A parking permit at the back of my car and misunderstood that my car is been parked in 15 minute parking zone so they found me in parking violation, gave 3 tickets and towed my car. I was having the zone A parking permit and I am providing you the copy of my parking permit and picture of the place where I parked my car."

The person ordering the vehicle towed, in this case, submitted a written "Tow Hearing Report" (Exhibit 5). The narrative section of Exhibit 5 states:

"on Nov. 5, 2009 while on routine patrol I timed an Oregon Hyundai with license plate # 559EKJ parked in a 15 minute zone at 8:03 AM. The vehicle did display a temporary area parking permit. (area parking permit, including temporary permit are not allow in non-area parking permit zones) The vehicle was cited at 9:15 AM for overtime in this 15 minute zone. The vehicle was given a second overtime citation at 10:51 AM and warned for tow. At 1:02 PM the vehicle still parked in same location cited and tow for excessive overtime in a 15 minute zone. On the back of all of the City area parking permits it is clear that they cannot park in non-area parking permit zones."

The parking enforcement officer included a copy of the back of the temporary area zone parking permits (Exhibit 8). The relevant language on Exhibit 8 states:

"This permit does not allow parking in non-APPP zones such as timed (1 hour, 30 minute, etc.)...."

The Hearings Officer shall find a tow valid if the Hearings Officer finds that the person ordering the vehicle towed followed the relevant laws/rules. In this case the relevant laws/rules can be found in Portland City Code ("PCC") 16.30.210 A.1, 16.30.220 B and 16.20.860. PCC 16.30.210 A.1 provides that a vehicle may be towed and held at the expense of the owner if the vehicle is parked in the public right-of-way in violation of a temporary or permanent parking restriction. PCC 16.30.220 B provides that a parking enforcement officer may order a vehicle towed, without prior notice, if the vehicle is illegally parked in a conspicuously posted restricted space, zone or traffic lane. PCC 16.20.860 provides that an area parking permit "does not convey any privileges other than that of exceeding the posted permit parking visitor time limit. It does not authorize parking in any other restricted zone."

The Hearings Officer finds that Mishra and the parking patrol enforcement officer who ordered the vehicle towed agree that the location where the vehicle was parked includes both a Zone A sign and a 15 minute parking restriction sign. The Hearings Officer finds that Mishra parked the vehicle that was towed, and subject to this case, in an area conspicuously posted as a 15 minute restricted zone. (See picture in Exhibit 1b submitted by Mishra and Exhibit 7 submitted by the parking enforcement officer). The Hearings Officer finds that the Zone A area parking permit does not allow parking in a 15 minute zone for a time longer than 15 minutes. The Hearings Officer finds that there is no dispute that the Mishra vehicle was parked in the 15 minute zone parking space for longer than 15 minutes.

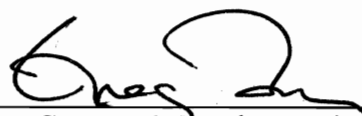
The Hearings Officer finds that the parking enforcement officer ordering Mishra's vehicle towed on November 5, 2009 followed all of the relevant laws/rules. The Hearings Officer finds that tow of Mishra's vehicle on November 5, 2009 is valid.

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 25, 2009

GJF:cb/rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 21969

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Letter (2 pgs)	Mishra, Ashish	Received
1a	Copy of tow receipt & Zone A permit	Mishra, Ashish	Received
1b	Photos	Mishra, Ashish	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Permit Info.	Parking Enforcement	Received
9	Title 16	Parking Enforcement	Received