



CITY OF

PORTLAND, OREGON

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Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF JEFFREY MANDZIJ

CASE NO. 1090295

DESCRIPTION OF VEHICLE: Honda Accord (OR 291BKB)

DATE OF HEARING: January 7, 2010

APPEARANCES:

Mr. Jeffrey Mandzij, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Mandzij appeared at the hearing and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony of Mr. Mandzij and the documents admitted into the evidentiary record (Exhibits 1 through and including 11).

Mr. Mandzij testified that, on the date his vehicle was ordered towed, he was driving towards home when he observed a Portland Police vehicle driving the other direction, pass his vehicle and do a "u-turn" and pull up behind him and initiate a traffic stop. Mr. Mandzij stated that the police officer got out of the police vehicle and approached his vehicle. Mr. Mandzij stated that the police officer asked him (Mr. Mandzij) for identification and proof of insurance. Mr. Mandzij stated that he gave the police officer an insurance card and the officer later returned it to Mr. Mandzij. The police officer told Mr. Mandzij that his insurance was not current. Mr. Mandzij asked the police officer if he could have his wife bring the current insurance card and the police officer told Mr. Mandzij that it was within his discretion to do that but the officer declined Mr. Mandzij's request. Mr. Mandzij stated that his vehicle was ordered towed for "not having insurance." Mr. Mandzij stated he did have insurance but did not have the current insurance card in his vehicle when stopped by the police officer. Mr. Mandzij stated that he parked his vehicle in the vicinity of SE 136th/SE Powell prior to the vehicle being towed.

Mr. Mandzij stated, in his letter requesting a tow appeal hearing (Exhibit 1), that "I showed the officer what should have been my current insurance info, only to discover that I had not put the updated info in my car, so I did not have it on me but I was in fact insured."

The police officer who ordered Mr. Mandzij's vehicle towed submitted a number of documents to the Hearings Office for this case, including a Traffic Violation Tow Report (Exhibit 7), Notice of Impoundment Towing (Exhibit 8), copy of a citation (Exhibit 9), information submitted by Mr. Mandzij to obtain the release of this vehicle (Exhibit 10) and a copy of the Vehicle Release (Exhibit 11). Exhibit

10, a copy of documents received from Mr. Mandzij at the time he requested a release from the Police Bureau, includes an insurance card which shows Mr. Mandzij did have insurance on the date his vehicle was ordered towed.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific section of Title 16 that is relevant can be found in PCC 16.30.220 K.1. Also relevant to this case are sections of the Oregon Revised Statutes, including ORS 806.010 and 806.011. PCC 16.30.220 K.1 permits a police officer, without prior notice, to order a vehicle towed and held at the expense of the vehicle owner if the police officer has probable cause to believe that the vehicle operator violated ORS 806.010 (driving uninsured). ORS 806.011 states, in relevant part, "Failure of the driver of a motor vehicle to show a valid card or other proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010."

The Hearings Officer finds that Mr. Mandzij did have insurance on the date his vehicle was towed. However, the Hearings Officer finds that the Hearings Officer must look at the circumstances existing at, and immediately prior to, the time Mr. Mandzij's vehicle was towed. The Hearings Officer must determine if the police officer who ordered Mr. Mandzij's vehicle towed had probable cause to believe that Mr. Mandzij was driving uninsured. As stated in ORS 806.011, a police officer has reasonable grounds to believe the vehicle operator is driving in violation of ORS 806.010 if the person fails to "show a valid card." The Hearings Officer finds that Mr. Mandzij himself, in Exhibit 1, stated that he was unable to provide a "current" copy of his insurance card to the police officer at the traffic stop. The Hearings Officer finds that Mr. Mandzij's failure to provide to the police officer a "valid" insurance card gives the police officer probable cause to believe Mr. Mandzij was driving in violation of ORS 806.010. The Hearings Officer finds that the police officer who ordered Mr. Mandzij's vehicle towed on December 17, 2009 followed the relevant laws/rules. The Hearings Officer finds the tow of Mr. Mandzij's vehicle on December 17, 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: January 8, 2010

GJF:cb/rs



Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 25030

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Letter	Mandzij, Jeffrey	Received
2	Notice of Impoundment	Mandzij, Jeffrey	Received
3	Tow desk printout	Hearings Office	Received
4	Hearing notice	Hearings Office	Received
5	Tow hearing info. sheet	Hearings Office	Received
6	Towed Vehicle Record	Police Records	Received
7	Traffic Violation Tow Report	Police Records	Received
8	Notice of Impoundment Towing	Police Records	Received
9	Oregon Uniform Citation and Complaint	Police Records	Received
10	Oregon Driver License and Insurance ID Card	Police Records	Received
11	Vehicle Release	Police Records	Received