



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 DYLAN LEE BARNHILL

CASE NO. 1100005

DESCRIPTION OF VEHICLE: Ford Econoline E150 (AK 7317CW)

DATE OF HEARING: January 12, 2010

APPEARANCES:

Dylan Lee Barnhill, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Dylan Lee Barnhill appeared at the hearing and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony of Mr. Barnhill and the documents admitted into the evidentiary record (Exhibits 1 through and including 12 [12a-12d]).

Mr. Barnhill testified that the front license plate did not display a current expiration sticker. Mr. Barnhill stated that the rear license plate did display a current expiration sticker (Nov 11). Mr. Barnhill admitted that no expiration sticker is on the front license plate; only one sticker is required, per Mr. Barnhill to be displayed in Alaska. Mr. Barnhill submitted into the evidentiary record a State of Alaska – Vehicle Registration document (Exhibit 10). Exhibit 10 indicates that the Alaska registration expires Nov 2011.

The Abandoned Auto Inspector who ordered Mr. Barnhill's vehicle towed submitted documents into the record (Exhibits 5, 6, 7, 8, and 9). Exhibit 5 is a Tow Hearing Report and contains a narrative section completed by the Abandoned Auto Inspector. This section states:

"The vehicle was found where reported at 000 BL NE 24th on December 31, 2009 at 8:40 am. The vehicle was parked the wrong way on the street and had expired tags. I warned the vehicle at that time for failure to display current registration plate. On January 4th I returned to check the status of the vehicle. It was parked in the same position and the green warning tag was still on the window, and the vehicle had the same expired plate. I cited the vehicle for tow at that time."

Exhibit 5 notes that Mr. Barnhill's vehicle was considered an abandoned vehicle because it had "no current registration plate displayed." Exhibit 5 indicates that Mr. Barnhill's vehicle was warned on December 31, 2009 and towed on January 4, 2010.

The Hearings Officer must find a tow is valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules can be found in the Portland

City Code ("PCC") Title 16. PCC 16.90.005 defines, for the purposes of towing a vehicle in Portland, the term "abandoned." A vehicle is deemed to be abandoned if the vehicle remains in violation for more than 24 hours and if the vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration." An "abandoned" vehicle may be towed and stored at the owner's expense if the vehicle is parked in the public right-of-way. (PCC 16.30.120 A.10) A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle.

The Hearings Officer takes note of Exhibit 9 (submitted by the Abandoned Auto Inspector). Mr. Barnhill acknowledged that Exhibit 9 is a photo of the rear license plate. Mr. Barnhill pointed out that on the left side is a "NOV" sticker and on the right side there are two stickers; one says "11" and the second states "09."

Without additional evidence in the record regarding Alaska law the Hearings Officer relies upon the statement that only one expiration sticker is required to be displayed in Alaska. The Hearings Officer finds that "NOV" and "11" stickers are displayed on the rear license plate. The Hearings Officer, therefore, finds that Mr. Barnhill's vehicle, on both December 31, 2009 and January 4, 2010 displayed a current registration plate. The Hearings Officer finds that Mr. Barnhill's vehicle did not meet the definition of "abandoned" as set forth in PCC 16.90.005.

The Hearings Officer finds that the Abandoned Auto Inspector who ordered Mr. Barnhill's vehicle towed on January 4, 2010 did not follow the relevant laws/rules. The Hearings Officer finds that the tow of Mr. Barnhill's vehicle on January 4, 2010 is not valid.

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: January 12, 2010

GJF:rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Abandoned Autos
Tow Number: 207

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	Barnhill, Dylan Lee	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	Abandoned Autos	Received
6	Case detail	Abandoned Autos	Received
7	Photos	Abandoned Autos	Received
8	Parking Violation	Abandoned Autos	Received
9	Photo	Abandoned Autos	Received
10	State of Alaska - Vehicle Registration	Barnhill, Dylan Lee	Received
11	GEICO Insurance Information	Barnhill, Dylan Lee	Received
12	Tow Invoice	Barnhill, Dylan Lee	Received
12a	Towed Vehicle Report	Barnhill, Dylan Lee	Received
12b	State of Alaska Vehicle Registration	Barnhill, Dylan Lee	Received
12c	Assignment of Vehicle Title by Owner	Barnhill, Dylan Lee	Received
12d	Seasonal Pollution Tab	Barnhill, Dylan Lee	Received