



CITY OF

PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF EDWIN H. ALLEN

CASE NO. 1100026

DESCRIPTION OF VEHICLE: Dodge Dakota (SC DQT817)

DATE OF HEARING: February 16, 2010

APPEARANCES:

Mr. Edwin Allen, Representing the Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Allen appeared at the hearing and represented his father, Edwin H. Allen, the vehicle owner. No person appeared on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Mr. Allen and the documents admitted into the evidentiary record (Exhibits 1 through and including 8).

Mr. Allen testified that in late December or early January he noted that his father's pickup truck (the "Truck") had a flat tire. Mr. Allen stated that he "jacked up the wheel" and left the Truck in that condition for a "month or so." Mr. Allen testified that he checked the Truck regularly. Mr. Allen stated that he could see the Truck from the window of his apartment. Mr. Allen stated that he believed that the Tow Warning Notice was placed on the driver's side of the Truck and that he could not see that location from his apartment window. Mr. Allen stated that a yellow envelope was placed on the Truck about 24 hours before the Truck was towed but he did not see it. Exhibit 1, a letter from the owner of the Truck (Mr. Allen's father) contained statements generally in agreement with Mr. Allen's testimony.

The Abandoned Auto Inspector for the City of Portland who ordered the Truck towed submitted written documents (Exhibits, 6, 7 and 8). Exhibit 7 contains a narrative, by the Abandoned Auto Inspector, stating:

"The vehicle was found where reported at 2121 se Belmont on Tuesday the 12th of January at 8:45am, the truck warning was stuck on the drivers die for appears inoperable, because the R/F tire was jacked up. I returned on the Jan. 25th to find the pu still jacked up, and still in violation. It was cited at 8:55 am for appears inoperative or disabled. I did not receive any phone calls regarding this matter."

The Abandoned Auto Inspector indicated, on Exhibit 6, that the Truck was warned on January 12, 2010 at 8:45 a.m. and ordered towed on January 25, 2010. Exhibit 8 contains four photographs and a copy of a Parking Citation. The lower right hand photo, on Exhibit 8, shows the right front wheel on a jack. 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 appears to be inoperative or disabled. 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 16.30.210 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 finds, based upon the evidence in the record, that the Truck had its right front wheel up on a jack stand. The Hearings Officer finds it reasonable to conclude that a vehicle appears inoperative or disabled if one of the vehicle's wheels is up on a jack stand. The Hearings Officer, therefore, finds that the Truck, on both January 12, 2010 and January 25, 2010, appeared to be inoperative and/or disabled. The Hearings Officer finds that the Notice of Tow Warning sticker was placed upon the Truck on January 12, 2010. The Hearings Officer finds that more than 72 hours passed, after the Notice of Tow Warning was placed on the Truck, before the Truck was towed. The Hearings Officer finds that the Abandoned Auto Inspector who ordered the Truck towed on January 25, 2010 did follow all relevant laws/rules. The Hearings Officer finds the tow of the Truck on January 25, 2010 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: February 17, 2010
GJF:rs


Gregory J. Frank, Hearings Officer

Bureau: Abandoned Autos
Tow Number: 1631

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Allen, Edwin H.	Received
2	1/27/10 Towed Vehicle Notice	Allen, Edwin H.	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Tow Hearing Report	Abandoned Autos	Received
7	Tow Detail	Abandoned Autos	Received
8	Parking Violation and photos	Abandoned Autos	Received