



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

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HEARINGS OFFICER'S ORDER

APPEAL OF LISA PERANTON

CASE NO. 1100027

DESCRIPTION OF VEHICLE: Acura TL (OR 541DFT)

DATE OF HEARING: February 16, 2010

APPEARANCES:

Lisa Peranton, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Peranton appeared at the hearing and testified on her own behalf. No person appeared at the hearing on behalf of the City. Ms. Peranton submitted a document with two pictures (Exhibit 8), a pay receipt for the parking meter (Exhibit 9), and a copy of her receipt when she recovered her vehicle from the tow storage yard (Exhibit 10). The Hearings Officer makes this decision based upon the testimony of Ms. Peranton and the documents admitted into the evidentiary record (Exhibits 1 through and including 10).

The Parking Enforcement Officer who ordered Ms. Peranton's vehicle towed submitted three documents (Exhibits 5, 6 and 7). Exhibit 5, a Tow Hearing Report, contains various comments made by the Parking Enforcement Officer related to the tow of Ms. Peranton's vehicle on January 23, 2010. Exhibit 6 is a copy of the Parking Violation issued to Ms. Peranton. Exhibit 7 is a page of pictures.

The Parking Enforcement Officer, in Exhibit 5, states that he/she

"responded to a service request asking for a tow of this vehicle from this reserved space. The space was clearly signed in a manner that made it clearly visible to drivers pulling into the space. The delineator was at the front of the space and within the space line delineating this space. Had the driver left the block face after the initial 90 minus as required by City Code 16.20.430.B this tow would not have happened. Her actions are meter feeding, caused her to be still in the space when I arrived. I knew that the delineator was installed on 1/5/10 and was there when she parked her vehicle. I observed the space was clearly posted and cited and towed the vehicle."

The Parking Enforcement Officer, in Exhibit 5, also stated that the "sign was on the same side of space line that this vehicle was parked in." Finally, in Exhibit 5, the Parking Enforcement Officer described the temporary No Parking sign.

Ms. Peranton testified that as she approached the parking space (where her vehicle was towed) she observed a Pay to Park sign with an arrow pointing west towards SW Fifth Avenue. Ms. Peranton stated she did see the temporary No Parking sign and noted that it did not contain any arrow. Ms. Peranton testified that she parked

where the red van is shown in Exhibit 8 (immediately behind the red van in Exhibit 7). Ms. Peranton stated that when she looked at the Pay to Park sign with an arrow pointing west, she assumed that the temporary No Parking sign applied to the space to its immediate west. Ms. Peranton stated that believing the temporary No Parking sign related to the parking space to the west would be consistent with the application of the Pay to Park sign arrow. The Hearings Officer took note of Ms. Peranton's photo (left side of page) which shows the Pay to Park sign (with arrow pointing to the west) and the temporary No Parking sign (with no arrow). The Hearings Officer finds that Ms. Peranton's assumption that the temporary No Parking sign applied to the space immediately west of the sign was reasonable, given the proximity and arrow of the Pay to Park sign.

The Hearings Officer finds the statement by the Parking Enforcement Officer, in Exhibit 5, that the parking delineator location was in the space where Ms. Peranton parked and was clearly placed/located, is not persuasive. The Hearings Officer referred to the photos in Exhibit 7 and Exhibit 8 and observed that the delineator is so close to the white parking space line that a reasonable person would not conclude that the location of the delineator clearly indicated which space was restricted by the temporary No Parking sign.

PCC 16.30.220 B requires that towing of a vehicle is permitted, without prior notice to the owner, if the "vehicle illegally parked in a conspicuously posted restricted space..."

The Hearings Officer finds that the lack of an arrow on the temporary No Parking sign, in close proximity to a sign that does have an arrow indicating parking restrictions apply on the west side of the sign, is not a clear and conspicuous notice to a person intending to park on either side of the temporary No Parking sign. The Hearings Officer finds that Ms. Peranton's interpretation that the temporary No Parking sign related to the space immediately west of the sign, in this case, was reasonable. The Hearings Officer finds, contrary to the statement by the Parking Enforcement Officer in Exhibit 5, the temporary No Parking sign was susceptible to more than one reasonable interpretation and therefore, was not "conspicuously posted."

The Hearings Officer finds that the tow of Ms. Peranton's vehicle on January 23, 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. 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: February 17, 2010

GJF:rs/cb


Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 1450

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	Peranton, Lisa	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 violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Photos (1 pg)	Peranton, Lisa	Received
9	Meter parking receipt	Peranton, Lisa	Received
10	Receipt	Peranton, Lisa	Received