

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF MOLLY JOHNSON

CASE NO. 1120052

DESCRIPTION OF VEHICLE: Dodge Ram (OR 911FLS)

DATE OF HEARING: April 10, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Johnson did not appear at the hearing. No one appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the documents admitted into evidence (Exhibits 1 through and including 6).

Summary of Evidence:

Ms. Johnson submitted a Tow Hearing Request Form, Exhibit 1, in which she indicates that her vehicle was towed on March 13, 2012, from SE 23rd. Ms. Johnson writes that her truck and camper were parked on SE 23rd "directly behind out back gate." Ms. Johnson writes, "Our truck and camper was parked there for two weeks and does not seem to be in a spot that would cause problems for anyone."

The City did not submit any documents to support the validity of the tow.

Applicable Law:

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 or the vehicle appears 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 (PCC 16.30.225 B.).

Findings of Fact and Conclusions of Law:

The Hearings Officer notes that the burden lies with the City to prove by a preponderance of the evidence that the tow of the vehicle is valid. In the absence of any documents/evidence from the City, the Hearings Officer finds the tow of Ms. Johnson's vehicle is not valid.

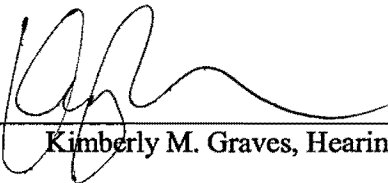
Order:

Therefore, the Hearings Officer finds that 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.

In order for a refund to be processed, a true copy of the tow invoice must be received in the Hearings Office by May 14, 2012.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 12, 2012
KMG:rs



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 4259

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	Tow Hearing Request Form	Johnson, Molly	Received
2	Tow Hearing Request Form - License Plate WA 6513TE	Johnson, Molly	Received
3	3/23/12 denial letter - Case #1120043	Johnson, Molly	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Notice of Rights and Procedures	Hearings Office	Received