

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Jessica Pyne

CASE NO. 1120057

DESCRIPTION OF VEHICLE: Honda Accord (OR 463CXN)

DATE OF HEARING: April 17, 2012

APPEARANCES:

Ms. Jessica Pyne, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Pyne appeared at the hearing and testified on her own behalf. 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 testimony of Ms. Pyne and the documents admitted into evidence (Exhibits 1 through and including 7).

Summary of Evidence:

Ms. Pyne submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on March 29, 2012, from NW Johnson Street. Ms. Pyne writes in Exhibit 1 that she was out of tow for business the week of March 26, 2012. Ms. Pyne writes that she parked her car on the evening of March 26, 2012, and that there were no signs posted at that time indicating that the area was going to become a temporary no parking zone. Ms. Pyne writes that she returned on April 1, 2012, to find that her vehicle had been towed. Ms. Pyne also submitted a copy of her boarding pass, Exhibit 2, to support the information contained in Exhibit 1. Ms. Pyne appeared at the hearing and testified consistent with the information in Exhibit 1. Ms. Pyne stated that she does not have off-street parking where she lives.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report which indicates that Ms. Pynes vehicle was towed on March 29, 2012, just after 8:00 a.m. from NW Johnson for the violation of "Temp. No Parking." The report indicates that signs were verified in the area on March 28, 2012, at 7:46 a.m. The narrative portion of the report reads:

"A car needs to move every 24 hours according to City ordinance.

The barricades were up and verified more than 24 hours."

Exhibit 6 is a copy of the citation issued to Ms. Pyne for violating a temporary no parking zone. Exhibit 7 contains 3 photos related to the tow of Ms. Pyne's vehicle. The photos, taken together, show Ms. Pyne's vehicle

parked within approximately 5-10 feet of a temporary no parking sign. The sign indicates that parking is prohibited between 6:00 a.m. and 5:00 p.m. on March 29, 2012 and March 30, 2012.

Applicable Law:

The Hearings Officer must find a tow is valid if 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. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice, if the vehicle is illegally parked in a conspicuously posted restricted space/zone.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on March 29, 2012, Ms. Pyne's vehicle was parked on NW Johnson Street; on a public right-of-way. The Hearings Officer finds that on March 28, 2012, at 7:46 a.m., temporary no parking signs were placed and verified on NW Johnson Street indicating a temporary parking restriction would take effect on March 29, 2012. The Hearings Officer finds that the temporary parking restriction was enforceable by tow 24 hours after placement and verification of the signs. The Hearings Officer finds that on March 29, 2012, greater than 24 hours after the temporary no parking signs were posted, Ms. Pyne's vehicle remained parked on NW Johnson in violation of the restriction. The Hearings Officer finds the tow of Ms. Pyne's vehicle to be valid.

Order:

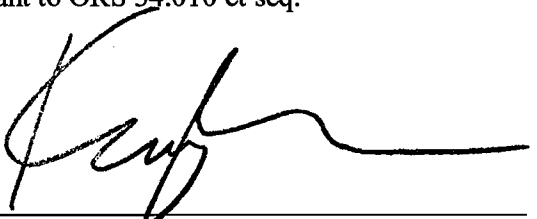
Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

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

Dated: April 27, 2012

KMG:jeg

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 5232

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	Pyne, Jessica	Received
1a	Alaska Airlines stub	Pyne, Jessica	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA09126969	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received