



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF KATHRYN RANGLES

CASE NO. 1120067

DESCRIPTION OF VEHICLE: Volvo V70 (OR 485EDP)

DATE OF HEARING: April 24, 2012

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Randles ("Randles") submitted a request for a tow appeal hearing (Exhibit 1). Randles provided a mailing address in Exhibit 1. A Notice of Hearing (Exhibit 3) was mailed on April 16, 2012, to the address provided by Randles. Portland Policy Document ADM-9.03, Towing Hearings Officer Rules and Regulations provide, that; "Written notification of the time and place of hearing need not be provided. The time and place of hearing will be set at the time the Request for Hearing is filed, and it is the responsibility of the person or persons requesting the hearing to make timely inquiry, in person or by telephone, to determine the time and place set for hearing" (ADM - 9.03 Rule 2-3).

Randles did not appear at the hearing. No person appeared at the hearing to testify on behalf of the City. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are 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 posted restricted space/zone.

Randles, in Exhibit 1, stated the following as reasons why she believed that the tow of her Volvo (Oregon 485 EDP; hereafter "the Vehicle") on April 9, 2012, to be invalid:

"My car was originally parked in a 'temporary no park zone.' I noticed I had a parking ticket and a 'tow' paper attached to the ticket. I moved my car out of the no park zone and went back into my apartment (on 19th and Johnson) assuming my car was out of harms way. I came back downstairs to find my car towed even though it was out of a no parking zone. I had to pay out of pocket to get my car out of the tow yard when it didn't need to be towed since it was out of the no park zone when it was towed. I simply can't afford mistakes like this by the towing company on my behalf. I am an Americorps member and am working 50+ hours a week on a nothing salary. This \$160 towing cost is 1/5 of my monthly income. I'm seeking reimbursement for the towing fine. I will pay my City of Portland ticket. But since I was wrongly towed, I believe I deserve my towing money back."

The City of Portland Parking Enforcement Officer who ordered The Vehicle towed on April 9, 2012, submitted into the record various documents (Exhibits 5, 6 and 7). Exhibit 5, a form document filled out by the Parking Enforcement Officer, states (in part) the following:

"Responding to complaint from company with barricades reserving spc s/side of NW Johnson 20th-19th. Barricades up and clearly visible (see pictures). Towed per policy - Barricade verified 4-6-12 3:31 pm."

Exhibit 5 also notes that the time of the citation issued to the Vehicle was 7:56 a.m. and the location of the vehicle was the south side of NW Johnson. Exhibit 6 is a copy of a City of Portland Parking Violation. Exhibit 6 indicates that the Parking Violation was issued at 07.56 AM on 04/09/12. Exhibit 7 contains three color photographs. The photos show clearly that a "barricade sign" was located in close proximity to the front of The Vehicle.

Exhibit 2 is copy of a "Tow Desk" report. This report shows that the "tow company" who eventually towed The Vehicle received a request at 8:13 a.m. on April 9, 2012. Exhibit 2 also shows that a tow truck was dispatched at 8:13 and that the tow of The Vehicle was completed at 8:45 a.m. on April 9, 2012. Exhibit 3 states that The Vehicle was towed from the north side of NW Johnson, between NW 19th and NW 20th.

The Hearings Officer finds that the Parking Enforcement Officer properly cited and ordered The Vehicle towed on April 9, 2012. However, the Hearings Officer also finds that the written statement of Randles is credible in that she observed the citation and tow order and moved The Vehicle to a legal parking spot prior to the tow truck arriving. The Hearings Officer finds that Exhibit 2 confirms that Randles moved The Vehicle from the south side of NW Johnson (the location where the temporary no parking restrictions were in force on April 9, 2012) to the north side of NW Johnson.

The Hearings Officer, at the hearing, announced that the tow of The Vehicle on April 9, 2012 was valid. The Hearings Officer, after reviewing the documents in the file, finds that the announced "valid" decision was improper. The Hearings Officer finds that The Vehicle, when the tow truck arrived, was legally parked. The Hearings Officer finds that the tow of The Vehicle on April 9, 2012, is not valid.

ORDER:

1. The City ordered tow of The Vehicle on April 9, 2012, is not valid.
2. The owner(s) or other person(s) who have an interest in The Vehicle are not liable for the towing and/or storage charges.
3. In order for the appellant to receive reimbursement, a complete and legible copy of the towing and storage bill must be furnished to the Hearings Officer by May 29, 2012.
4. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 27
 GJF:rs/jeg



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
 Tow Number: 5910

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	Randles, Kathryn	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received