

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Samuel Stetser

CASE NO. 1120066

DESCRIPTION OF VEHICLE: Scion XD (OR 978FKH)

DATE OF HEARING: April 26, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

No one appeared at the hearing or on Mr. Stetser's 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 documents admitted into evidence (Exhibits 1 through and including 7).

Summary of Evidence:

Mr. Stetser submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on April 9, 2012, from NW Johnson Street. Mr. Stetser writes in Exhibit 1 that his wife parked the vehicle on NW Johnson on the night of April 8, 2012. Mr. Stetser writes that the "sandwich board" signs indicating that the block was "no parking" was not in sight and that his wife looked for parking signs. Mr. Stetser writes that on April 9, 2012, the vehicle was towed and the sign was evident on the sidewalk. Mr. Stetser writes that the signs were not large enough or a clear indicator of the parking rules and regulations.

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 Mr. Stetser's vehicle was towed on April 9, 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 April 6, 2012, at 3:31 p.m. The narrative portion of the report reads:

"Responding to complaint from company with barricades Reserving spc w/side of NW Johnson 19-20th. Barricades clearly visible (see picture.) Towed per policy. Barricades verified 4-6-12 @ 3:31 p.m."

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

vehicle parked within approximately 5 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 April 9, 2012 and April 10, 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 April 9, 2012, Mr. Stetser's vehicle was parked on NW Johnson Street; on a public right-of-way. The Hearings Officer finds that on April 6, 2012, at 3:31 p.m. temporary no parking signs were placed and verified on NW Johnson Street indicating a temporary parking restriction would take effect on April 9, 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 April 9, 2012, greater than 24 hours after the temporary no parking signs were posted, Mr. Stetser's vehicle remained parked on NW Johnson in violation of the restriction. The Hearings Officer finds the tow of Mr. Stetser's vehicle to be valid.

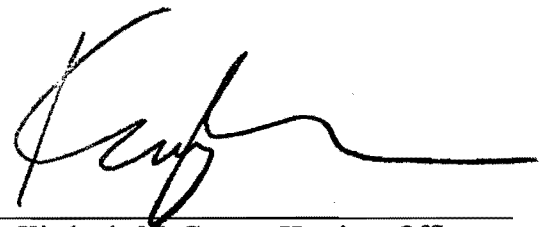
Order:

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: 5911

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	Stetser, Samuel	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	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