

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Hillary Rose Linch

CASE NO. 1120094

DESCRIPTION OF VEHICLE: Honda Civic (OR 814CFY)

DATE OF HEARING: June 7, 2012

APPEARANCES:

Ms. Hilary Linch, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Linch 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. Linch and the documents admitted into evidence (Exhibits 1 through and including 11).

Summary of Evidence:

Ms. Linch submitted a Tow Hearing Request Form, Exhibit 5, regarding the tow of her vehicle on May 10, 2012, from SE Division. Ms. Linch also submitted a hand-written letter, Exhibit 1, and photos of the area where the vehicle was parked, Exhibit 3. Ms. Linch writes in Exhibit 5:

"There is not a sign that states that violators will be towed. The signs which state no parking between 4 & 6 pm are very difficult to see."

Ms. Linch appeared at the hearing and testified that there are signs indicating that parking is restricted, but that the signs do not say that vehicles will be towed. Ms. Linch submitted an additional photo, Exhibit 11, which she indicated was taken from where her vehicle was parked. Ms. Linch testified that her vehicle was parked in the middle of the block. Ms. Linch testified that the no parking sign in front of her vehicle was blocked by trees.

The city submitted Exhibits 9 and 10 regarding the tow of Ms. Linch's vehicle. Exhibit 9 is a Tow Hearing Report indicating that Ms. Linch's vehicle was towed on May 10, 2012, from SE Division and 26th. The narrative portion of the report indicates that Ms. Linch's vehicle was parked in the 4-6 p.m. prohibited time zone. The report indicates that the zone reaches from 10th Ave. to 28th Ave. and that there are 3 no parking signs on the block where Ms. Linch's vehicle was parked. The report indicates that the signs are located on each end of the block and in the middle. Exhibit 10 is a copy of the citation issued to Ms. Linch when her vehicle was towed. The

citation was issued at 4:46 p.m. on May 10, 2012. The report indicates that photos were taken of the vehicle, but that the photos were lost due to a "computer error."

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. 16.30.210A1 provides that a vehicle may be towed and held at the expense of the owner from any public right-of-way when the vehicle is parked in violation of a permanent parking restriction. PCC 16.30.220A permits any authorized officer to tow a vehicle when the vehicle is impeding or likely to impede the normal flow of vehicular traffic. PCC 16.30.220B permits any authorized officer to tow a vehicle without prior notice when the vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on May 10, 2012, at approximately 4:46 p.m., Ms. Linch's vehicle was parked on SE Division Street in an area which had a permanent parking restriction prohibiting parking between 4:00 p.m. and 6:00 p.m. The Hearings Officer finds that the zone was conspicuously posted with three signs on the block face, and that such signs would be visible to a driver following the driving rules on the roadway. The Hearings Officer finds that a vehicle parked on SE Division between the hours of 4:00 and 6:00 p.m. would impede the normal flow of vehicular traffic. The Hearings Officer finds the tow of Ms. Linch's vehicle to be valid.

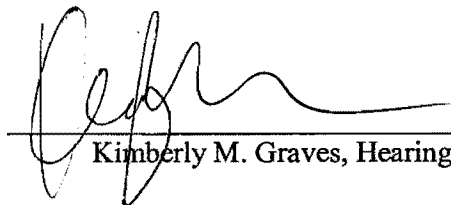
Order:

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: June 8, 2012

KMG:c2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 7671

Exhibit #	Description	Submitted by	Disposition
1	Letter	Linch, Hilary Rose	Received
2	Receipts	Linch, Hilary Rose	Received
3	Photos	Linch, Hilary Rose	Received
4	Tow Desk printout	Hearings Office	Received
5	Tow Hearing Request Form	Linch, Hilary Rose	Received
6	Hearings Office ORS sheet	Linch, Hilary Rose	Received
7	Notice of Hearing	Hearings Office	Received
8	Statement of Rights and Procedures	Hearings Office	Received
9	Tow Hearing Report	Parking Enforcement	Received
10	Parking Violation	Parking Enforcement	Received
11	Photo	Linch, Hilary Rose	Received