

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

APPEAL OF DEIDRE MCARTHUR

CASE NO. 1120138

DESCRIPTION OF VEHICLE: Chevrolet Cavalier (WA 810XOD)

DATE OF HEARING: August 7, 2012

APPEARANCES:

Ms. Deidre McArthur, Appellant

Ms. Debbie Barkley, on behalf of the City

HEARINGS OFFICER: Ms. Kimberly M. Graves

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

Summary of Evidence:

Ms. McArthur submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on July 19, 2012 from SE 71st Avenue. Ms. McArthur indicated in her request form that she was on a "short vacation" when the car was towed. Ms. McArthur writes that her car was parked in front of her home by a storm drain. Ms. McArthur writes that the City needed to work on the drain and posted signs to move her car. Ms. McArthur writes that her neighbors asked to City to tow the car 10-15 feet down the road, instead of towing it away, but the City refused. Ms. McArthur appeared at the hearing and stated that she believes that there was a "better solution" than towing her car. Ms. McArthur repeated the information contained in Exhibit 1 about how and why her vehicle was towed.

Ms. Barkley appeared and testified on behalf of the City. Ms. Barkley testified that on July 19, 2012, she responded at 8:07 a.m. to a service request to tow a vehicle which was parked in violation of a temporary no parking restriction. Ms. Barkley testified that the vehicle was located on the 3900 block of SE 71st. Ms. Barkley testified that the temporary no parking signs were placed and verified on July 17, 2012 at 8:51 a.m. The City also submitted Exhibits 5 through, and including, 7 regarding the tow of Ms. McArthur's vehicle. Exhibit 5 is a Tow

Hearing Report indicating that Ms. McArthur's vehicle was towed at approximately 8:00 a.m. on July 19, 2012 from SE 71st for being parked in a reserved zone. Exhibit 6 is a copy of the citation issued to Ms. McArthur when her vehicle was towed. Exhibit 7 contains three photos taken of Ms. McArthur's vehicle prior to towing. The temporary no parking sign can be seen in each photo located next to the front bumper on the driver's side of the vehicle. The sign reads "No parking 7am-6pm Mon-Fri."

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. PCC 16.20.170 provides that "no person may store . . . a vehicle . . . on public right-of-way or other public property in excess of 24 hours without permission . . ." PCC 16.30.210D provides that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.210A1 provides that a vehicle may be towed from any public right-of-way when the vehicle is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220B provides that an authorized officer may tow a vehicle, without notice, when the vehicle is illegally parked in a conspicuously posted restricted space.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that prior to July 19, 2012, Ms. McArthur parked her vehicle on SE 71st. The Hearings Officer finds that on July 17, 2012 at 8:51 a.m., temporary No Parking signs were properly placed and verified on SE 71st. The Hearings Officer finds that the temporary No Parking signs were enforceable 24 hours after placement. The Hearings Officer finds that on July 19, 2012, when the signs were in effect, Ms. McArthur's vehicle remained parked on SE 71st in the area which was designated as a temporary no parking zone. The Hearings Officer finds that the temporary No Parking signs were conspicuously posted at the time the vehicle was towed. The Hearings Officer finds that tow of Ms. McArthur's vehicle is valid.

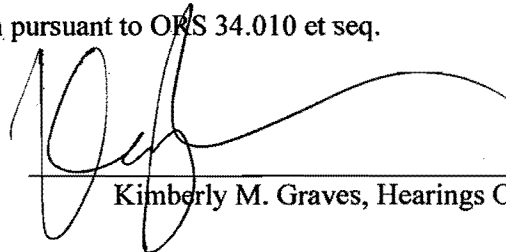
Order:

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: August 14, 2012

KMG:c2/c1



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement

Tow Number: 11308

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	McArthur, Deidre	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 #HA09128774	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received