



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF LESLIE MILLER

CASE NO. 1120182

DESCRIPTION OF VEHICLE: Kia Optima (OR 143DMT)

DATE OF HEARING: October 9, 2012

APPEARANCES:

Ms. Leslie Miller, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Miller 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. Miller and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Miller submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on September 28, 2012. Ms. Miller writes in Exhibit 1 that she was "late moving her car parked on E. Burnside . . . but I did move my car to 61st to a legal parking spot. . . . I went back into my job training class, came out 2 hours later and the car had been towed from my legal parking place." Ms. Miller testified at the hearing that at approximately 4:30 p.m. she moved her car off of E. Burnside due to the no parking restriction from 4:00 – 6:00 p.m. weekdays. Ms. Miller stated that when she went to move her car, she already had a parking ticket. Ms. Miller stated that she moved her car around the corner and parked it legally on SE 61st. Ms. Miller indicated that she placed her parking ticket on the seat of her car when she moved it. Ms. Miller indicated that when she returned to retrieve her car, she found that it had been towed from SE 61st.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Request Form indicating that Ms. Miller's vehicle was towed on September 28, 2012 from E Burnside between 60th and 61st Avenues. The narrative portion of the report indicates that the vehicle was parked in the prohibited time zone when it was cited. The report then reads "If it was towed from a different location I can not say, as it was still parked on E. Burnside when I left the scene." The report indicates that there is a parking restriction in the area between 4-6 pm Monday through Friday. Exhibit 6 is a copy of the parking citation issued to Ms. Miller on September 28, 2012. Exhibit 7 contains 3 photos related to the tow of Ms. Miller's

vehicle. The photos show Ms. Miller's vehicle parked next to a prohibited time parking zone sign. The photos have a date and time stamp showing that they were taken at 4:28 p.m. on September 28, 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. PCC 16.20.205 C provides that a sign which prohibits parking during certain hours or days such as "No Parking 7 a.m. to 9 a.m. Monday through Friday" or "Truck Loading Zone 7 a.m. to 6 p.m. Monday through Friday" is in effect during the days and times shown on the sign, excluding City recognized holidays. PCC 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 16.30.220B 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:

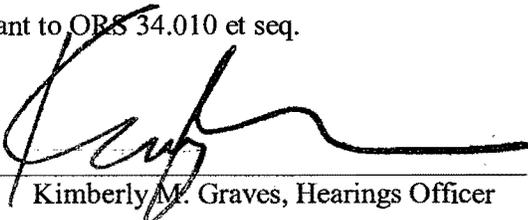
The Hearings Officer finds that on September 28, 2012 Ms. Miller parked her vehicle on E. Burnside in an area which is subject to a permanent parking restriction prohibiting parking between 4:00 p.m. and 6:00 p.m. Monday through Friday. The Hearings Officer finds that Ms. Miller's vehicle remained parked on E. Burnside after 4:00 p.m. and received a parking citation. The Hearings Officer finds Ms. Miller credible in her statement about what occurred after her vehicle was ticketed on September 28, 2012. The Hearings Officer finds that after Ms. Miller's vehicle was ticketed, but before it was towed, Ms. Miller moved her vehicle to a legal parking space on SE 61st Ave. The Hearings Officer finds that when Ms. Miller's vehicle was towed it was legally parked on SE 61st Ave. The Hearings Officer finds the tow of Ms. Miller's vehicle is not valid.

Order:

Therefore, the Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

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

Dated: October 10, 2012
KMG:c1/m1


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 14966

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	Miller, Leslie	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Statement 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
8	Tow Invoice	Miller, Leslie	Received