



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Nathan Osborne

CASE NO. 1120236

DESCRIPTION OF VEHICLE: Toyota Matrix (CA 6JST863)

DATE OF HEARING: December 20, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Nathan Osborne did not appear at the hearing. Mr. Osborne indicated to the Hearings Office staff when he requested the Tow Appeal Hearing that he would be out of town for the scheduled hearing. Mr. Osborne told the Hearings Office staff that he was listing his parent's address as the address to send notice to when the hearing was scheduled. A Notice of Hearing was sent on December 10, 2012 to the address provided by Mr. Osborne. No one appeared at the hearing on Mr. Osborne'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 8).

Summary of Evidence:

Mr. Osborne submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on December 7, 2012. In Exhibit 1, Mr. Osborne indicates that he believes the tow of his vehicle is invalid because "I was not notified of the leaf clean up." Mr. Osborn writes that the temporary no parking signs were posted 24 hours before the tow; however, he does not drive his vehicle daily and he did not see the signs.

The City submitted Exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a Tow Hearing Report indicating that Mr. Osborne's vehicle was towed on December 7, 2012 from NW 18th Ave between Hoyt and Irving. The narrative portion of the report reads "Vehicle was parked in Temporary No Parking zone with no parking sign on driver's side of car." The report indicates that temporary no parking signs were verified by parking enforcement as properly placed on December 5, 2012 at 2:38 p.m. The report further indicates that the temporary posted signs read, "No Parking 7:30 a.m. -10 a.m. Friday." Exhibit 7 is a copy of the parking citation issued when the vehicle was towed. Exhibit 8 contains 3 photos related to the tow of Mr. Osborne's vehicle. The photos show a temporary no parking sign on the curb next to the vehicle.

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.

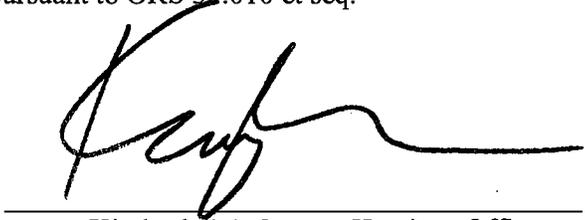
Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on December 5, 2012 at 2:38 p.m. temporary no parking signs were placed on NW 18th Ave indicating a temporary parking restriction for December 7, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on December 7, 2012, during the enforcement time listed on the signs, Mr. Osborne’s vehicle was parked in the restricted zone. The Hearings Officer finds that on December 7, 2012 a temporary no parking sign was conspicuously posted next to Mr. Osborne’s vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Mr. Osborne’s vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Mr. Osborne’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.



Kimberly M. Graves, Hearings Officer

Dated: December 21, 2012
KMG: c2/m2

Enclosure

Bureau: Parking Enforcement
Tow Number: 19538

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Osborne, Nathan	Received
2	Contract Tow Invoice	Osborne, Nathan	Received
3	Tow Desk printout	Hearings Office	Received
4	Notice of Hearing	Hearings Office	Received
5	Statement of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received