



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF MATTHEW J. DIAL

CASE NO. 1120259

DESCRIPTION OF VEHICLE: Honda Accord (OR WCC491)

DATE OF HEARING: December 20, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Matthew Dial (“Appellant”) did not appear at the hearing. Mr. Joseph Dial (“Authorized Representative”) did not appear at the hearing. A Notice of Hearing was mailed to Appellant on December 17, 2012 to the address he provided when he requested his appeal hearing. The Notice was not returned to the Hearings Office by the U.S. Mail Service. A voicemail message was also left for Appellant on December 17, 2012 providing him with the date, time and location for his appeal hearing. 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:

Appellant submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on December 7, 2012. Appellant writes that “I believe that all proper legal steps were probably taken, and I do not contest, at least in my layman’s point of view, the towing. I am asking for some reprieve in the costs involved of this honest mistake...” Appellant writes that he parked his vehicle in NW Portland on December 5, 2012 before traveling out of town. Appellant writes that he did not see any temporary no parking signs before leaving town, but when he returned his vehicle had been towed.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer’s consideration. Exhibit 5 is a Tow Hearing Report indicating that Appellant’s vehicle was towed on December 7, 2012 from NW Flanders. The narrative portion of the report reads “City ordinance states that a vehicle needs to move every 24 hrs. Barricades were up & verified 24 hrs +. See picture – barricade near front bumper.” Exhibit 6 is a copy of the parking citation issued when the vehicle was towed. The citation indicates that temporary no parking signs were verified by parking enforcement as properly placed on December 5, 2012 at 2:38 p.m. Exhibit 7 contains 2 photos related

to the tow of Appellant’s vehicle. The photos show a temporary no parking sign next to the front bumper of 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:

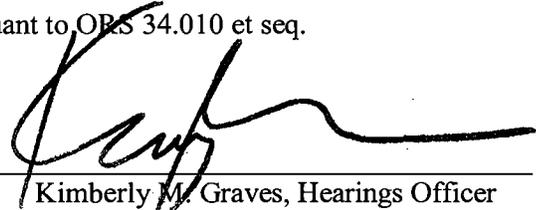
The Hearings Officer finds that on December 5, 2012 at 2:38 p.m. temporary no parking signs were placed on NW Flanders indicating a temporary parking restriction for December 7, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on December 7, 2012, during the enforcement time listed on the signs, Appellant’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 Appellant’s vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Appellant’s vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Appellant’s vehicle is valid.

Order:

Therefore, it is ordered that all towing and storage charges against the vehicle, and an administrative fee, if applicable, shall remain the responsibility of the appellant.

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

Dated: December 21, 2012
KMG:c1/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19527

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Dial, Matthew J.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	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