



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF LORAINN KARNES

CASE NO. 1080196

DESCRIPTION OF VEHICLE: Jeep Cherokee (WA 681XJL)

DATE OF HEARING: July 22, 2008

APPEARANCES:

Ms. Lorainn Karnes

HEARINGS OFFICER: Mr. Gregory J. Frank

The Hearings Officer, on substantial evidence and based upon the record as a whole, finds as follows:

Ms. Karnes appeared and testified on her own behalf. The Hearings Officer makes this decision based upon the testimony of Ms. Karnes at the hearing and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 9).

Ms. Karnes testified that on the date her vehicle was towed she was traveling northbound on I-5 when the traffic stacked up in the vicinity of the Portland Meadows horse racing track. She indicated that her battery died and the car stopped. Ms. Karnes testified that she pushed the vehicle across two lanes to the side of the highway and then walked a long distance, with the battery, to her home. Ms. Karnes testified that after she charged the battery overnight and returned the next morning to the I-5 location where she had parked the car, she discovered the car was gone. Ms. Karnes acknowledged that the location where she pushed her vehicle was close to a freeway off-ramp.

ODOT, the entity ordering the tow, noted (Exhibit #8) that Ms. Karnes' vehicle was parked on I-5 at the start of an exit ramp. ODOT provided photos indicating the location of Ms. Karnes' vehicle in relation to the freeway and exit ramp (Exhibit #9).

The Hearings Officer must find a tow valid if the Hearings Officer finds the person ordering the tow followed the relevant laws/rules. In this case, the relevant rule may be found in Oregon Administrative Rule 734-020-147. This Rule permits ODOT to order, without prior notice, a vehicle towed if, among other things, any part of a vehicle that is parked or left standing unattended on a state highway extends within the travel portion of the highway as identified by painted edge lines. Also, this Rule permits

ODOT to tow a vehicle, without prior notice, if the vehicle is parked on a freeway within 1,000 lineal feet of a freeway exit.

The Hearings Officer finds that Ms. Karnes' vehicle had its left wheels extending into the travel lane of the freeway and also that the vehicle was parked within 1,000 feet of a freeway exit. The Hearings Officer notes that Ms. Karnes acknowledged that her vehicle was parked close to a freeway exit. The Hearings Officer finds that the pictures (Exhibit 9) clearly indicate the left wheels were located in the travel lane (over the painted line) and the vehicle was located in very close proximity, within 1,000 feet, of the exit ramp. The Hearings Officer finds that the person who ordered the tow followed the relevant laws/rules and therefore the tow is valid.

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: July 23, 2008

GJF: rs


Gregory J. Frank, Hearings Officer

Bureau: ODOT
Tow Number: 19030

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Karnes, Lorainn	Received
2	Receipt and ODOT notice	Karnes, Lorainn	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process info. sheet	Hearings Office	Received
6	Duplicate copy of Exh. 1	ODOT	Received
7	Duplicate copy of Exh. 2	ODOT	Received
8	Transport Incident Report (2 pgs)	ODOT	Received
9	Photos (2 pgs)	ODOT	Received