



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF ANGELA STENKAMP

CASE NO. 1080213

DESCRIPTION OF VEHICLE: Chrysler LeBaron (NAH627)

DATE OF HEARING: July 31, 2008

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

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

Ms. Stenkamp failed to appear at the hearing. A Notice of Hearing was sent to Ms. Stenkamp on July 30, 2008. Ms. Stenkamp contacted the hearings office and was informed by a clerk of the date/time of the hearing. Ms. Stenkamp informed the clerk that she would not be appearing at the hearing. The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 22).

Ms. Stenkamp stated, in her request for a hearing, that "the driver was not registered owner vehicle was insured and driver was licensed. Owner had no knowledge of drivers DUI status. Owner should not be held financially responsible for drivers actions." (Exhibit 3). In a separate writing (Exhibit 1) Ms. Stenkamp stated that:

"I believe this was an invalid tow for the following reasons:

- The vehicle had valid insurance
- The driver was not the registered owner the driver had owners permission to drive vehicle
- Owner had no knowledge of drivers DUI status as that was not the case when driver was granted permission to drive vehicle
- Owner should not be financially responsible for drivers actions."

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules/procedures. In this case the vehicle was towed because "a police officer has probable cause to believe that the vehicle's operator" was "driving uninsured (ORS 806.010).

(Exhibit 20). Portland City Code 16.30.220 K.1 permits a police officer to tow a vehicle, without prior notice, if the police officer has probable cause to believe the vehicle operator was driving uninsured.

Ms. Stenkamp stated (Exhibits 1 and 3) that the vehicle was insured. Although that may be true, the question that must be answered by the Hearings Officer is did the police officer, at the time the vehicle was ordered towed, have probable cause to believe the vehicle was not insured?

ORS 131.005 (11) defines probable cause as when "there is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it." In this case Officer Filbert stated, in his/her report, that the vehicle operator was stopped for expired tags. (Exhibit 9). Officer Filbert stated, in his/her report, that the vehicle operator (Mr. Kreofsky) told Officer Filbert that "he did not own the car saying it was borrowed from a friend "Michelle" unknown last name. Subject had no insurance, no registration, cited for same." (Exhibit 9).

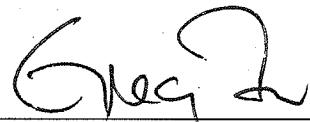
The Hearings Officer finds that, at the time the vehicle was ordered towed, the police officer was told by the driver that he did not have proof of insurance. The Hearings Officer finds that the statement by the vehicle operator is objective evidence upon which a police officer could conclude that there is probable cause to believe the vehicle was not insured. The Hearings Officer also notes that, in conjunction with the police officer being told by the vehicle operator that there was no proof of insurance, the police officer could consider the "expired tags" observed on the vehicle. The Hearings Officer finds that the police officer did have probable cause, at the time of ordering the tow, to believe the vehicle was uninsured.

The Hearings Officer finds the tow of the vehicle 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: August 4, 2008

GJF: rs



Gregory J. Frank, Hearings Officer

Bureau: Police

Tow Number: 20312

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Stenkamp, Angela	Received
2	Denial letter	Hearings Office	Received
3	Hearing request form	Stenkamp, Angela	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Tow Hearings Process Info. sheet	Hearings Office	Received
7	Towed Vehicle Record	Police Records	Received
8	Custody Report	Police Records	Received
9	Special Report	Police Records	Received
10	Implied Consent form	Police Records	Received
11	DUII Interview Report	Police Records	Received
12	Field Sobriety Test Report	Police Records	Received
13	Drug Influence Evaluation	Police Records	Received
14	Intoxilyzer 8000 Operator's Checklist	Police Records	Received
15	Breath Test Report	Police Records	Received
16	Concealed Handgun License - Gabe Nick Kreofsky	Police Records	Received
17	Oregon Driver's License - Gabe Nick Kreofsky	Police Records	Received
18	Concealed Handgun License Unit Notice to Applicant/Licensee	Police Records	Received
19	Citations	Police Records	Received
20	Notice of Impoundment Towing	Police Records	Received
21	Oregon State Police Forensic Services Request	Police Records	Received
22	Property/Evidence Receipt	Police Records	Received
23	Property/Evidence Receipt	Police Records	Received
24	Property/Evidence Receipt	Police Records	Received

