



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1900 S.W. 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
FAX: (503) 823-4347
TDD (503) 823-6868

HEARINGS OFFICER'S ORDER

APPEAL OF ALBERT RODRIGUEZ

CASE NO. 1080232

DESCRIPTION OF VEHICLE: Honda Accord (OR 634CGP)

DECISION WITHOUT APPEARANCE

HEARINGS OFFICER: Mr. Gregory J. Frank

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

Mr. Rodriguez, Appellant, requested (Exhibit 7) that a decision be made based upon the documents submitted into the record (Exhibits 1 through and including 7B). The Hearings Officer makes this decision based upon the admitted exhibits (Exhibits 1 through and including 7B).

The Hearings Officer shall find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant Portland laws/rules. The person ordering the tow filed a written report (Exhibit 5). The report states, in relevant part, the following:

"This tow was done on routine patrol. The fire dept. wants that kept clear fro fire access, so we cite & tow w/o a service request. As can be seen from my photo (1), this veh is pulled up to the NPA & tow sign with the arrow pointing @ the veh. There is a companion sign on the other side of the veh w/ arrow pointing at the veh."

The person ordering the tow included on the report a diagram indicating the Appellant's vehicle was located between two NPA (no parking allowed) signs. The person ordering the tow also included a copy of a citation and three photographs (Exhibit 6).

Appellant submitted a supplemental letter (Exhibit 7) describing the events leading up to his vehicle being towed. Included with his supplemental letter is a witness statement (Exhibit 7A), a picture (attached to Exhibit 7), and a copy of a tow receipt (Exhibit 7B). The Appellant, in his supplemental letter (Exhibit 7) states, in relevant part, the following:

"On Saturday, August 2, 2008, our family decided to go for a hike at Forest Park. We parked on Thurman on the right hand side of the 'No Parking' sign which stated if you parked on the left of the sign, you would be towed. In other words, we parked in a legal parking area (please see picture). It stated that you needed to be parked at an angle. We parked at an angle right along side the car next to us, because there are no actual parking lines indicating how much of angle you need to park at."

The witness statement (Exhibit 7A) states, in relevant part, the following:

"The issue that stood out the most for me was that they were not even parked illegally. They were parked on the right side of the sign at an angle, which is the way I was parked, but further down."

The photo (attached to Exhibit 7) supplied by Appellant shows the Appellant's vehicle parked to the right of a "double stacked" set of signs. The photo is blurred to such an extent that the Hearings Officer could not read the signs.


The Hearings Officer finds that the signs shown in the photos supplied by the person ordering the tow and the Appellant are different. The signs in the photos supplied by the person ordering the tow clearly show a sign indicating No Parking and arrows pointing to the left and right (side where Appellant's vehicle is parked); the small sign below the No Parking sign clearly shows a tow truck towing a vehicle. The photo supplied by the person ordering the tow is placed upon a large wooden pole. The photo supplied by the Appellant shows a tall sign, possibly two signs, unreadable face(s) and mounted on what appears to be a metal post. The Hearings Officer finds that the signs provided by the person ordering the tow and the Appellant are not the same.

The Hearings Officer finds that the photos taken by the person ordering the tow were taken contemporaneously with the issuance of the citation and tow. The Hearings Officer finds it is less certain when the photo supplied by the Appellant was taken. The Hearings Officer finds that the photos taken by the person ordering the tow represent the time and location immediately prior to Appellant's vehicle being towed. The Hearings Officer finds the written report prepared by the person ordering the tow accurately describes the events/location immediately prior to ordering Appellant vehicle being towed. The Hearings Officer finds the statements made by Appellant and Appellant's witness to be less credible. As such, the Hearings Officer finds that Appellant's vehicle was towed from a location that was clearly and conspicuously a posted space. The Hearings Officer finds that the person who ordered the Appellant's vehicle towed followed the relevant law/rule in this case; Portland City Code 16.30.220 B. The Hearings Officer finds the tow 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 15, 2008
GJF: cb


Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 21561

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Rodriguez, Albert	Received
2	Tow desk report	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Tow hearing report	Parking Enforcement	Received
6	Parking violation w/photos	Parking Enforcement	Received
7	Letter requesting decision w/o appearance & photo	Rodriguez, Albert	Received
7a	Letter from Abraham Lopez, Jr. attached to Exh. 7	Rodriguez, Albert	Received
7b	Tow receipt	Rodriguez, Albert	Received