



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF ANDREW W. BURDICK

CASE NO. 1080259

DESCRIPTION OF VEHICLE: Honda Civic (OR 155DEU)

DATE OF HEARING: August 29, 2008

APPEARANCES:

Andrew W. Burdick, Appellant's representative

HEARINGS OFFICER: Mr. Gregory J. Frank

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

Mr. Andrew Burdick appeared on behalf of the owner of the vehicle, Ms. Kristen Monsell (Exhibit 9). The Hearings Officer makes this decision based upon the testimony of Mr. Burdick and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 12).

Mr. Burdick testified that he resides at 730 NW 20th in Northwest Portland. He stated that on the evening of August 7, 2008 he noted numerous temporary No Parking signs throughout his area. He noted that the signs indicated that the temporary parking restriction was for the morning of August 8, 2008. As a result, according to Mr. Burdick, he moved the vehicle; looking for a location where there were no signs. Mr. Burdick stated that he found a blockface on NW Everett, east of the intersection with NW 21st where he parked. Mr. Burdick testified that he walked up and down the blockface where he parked the car and observed no temporary No Parking signs. When he came back on August 8th, at approximately 10:00 a.m., the vehicle was not there and again there were no signs.

The parking patrol deputy who ordered the vehicle towed stated that the vehicle was towed on August 8, 2008 at approximately 8:25 a.m. (Exhibit 8). The deputy also provided a written "Tow Hearing Report", which noted that temporary No Parking signs were verified on August 6, 2008 at 4:56 p.m. (Exhibit 7). The deputy also stated, in the narrative section that, "I always check to ensure barricade placement prior to every cit during sweeps. Barricades were in place and visible." (Exhibit 7).

Normally the Hearings Officer finds the deputies statement persuasive. However, in this case, Mr. Burdick presented himself as a very credible witness and the Hearings Officer found his version of

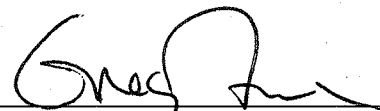
events to be persuasive. In particular, the Hearings Officer found persuasive Mr. Burdick's statement that he did observe temporary No Parking signs in the vicinity of his residence, and that on his own he moved the car to a location where he observed no signs. The Hearings Officer finds the signs were not up and notice to Mr. Burdick was not properly provided. The Hearings Officer finds the tow is not valid.

The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to Kristen Monsell.

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

Dated: September 4, 2008

GJF: rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement

Tow Number: 22139

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 2 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Burdick, Andrew W.	Received
2	Receipts (illegible)	Burdick, Andrew W.	Received
3	Parking Violation	Burdick, Andrew W.	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Tow Hearings Process Info. sheet	Hearings Office	Received
7	Tow hearing report	Parking Enforcement	Received
8	Parking Violation (no photos)	Parking Enforcement	Received
9	Letter from vehicle owner Kristen Monsell	Burdick, Andrew W.	Received
10	Copy of receipts	Burdick, Andrew W.	Received
11	Copy of vehicle title for Kristen Monsell	Burdick, Andrew W.	Received
12	Envelope w/ new address shown	Burdick, Andrew W.	Received