



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF APRIL LEA WHEELER

CASE NO. 1080275

DESCRIPTION OF VEHICLE: Nissan Truck (OR WYQ578)

DATE OF HEARING: September 11, 2008

APPEARANCES:

Ms. April Lea Wheeler, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

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

Ms. Wheeler appeared and testified on her own behalf. The Hearings Officer makes this decision based upon the testimony of Ms. Wheeler and the exhibits admitted into the evidentiary record (exhibits 1 through and including 15).

Ms. Wheeler testified that on the date the Nissan truck with license plate OR WYQ578 (the "Truck") was towed, she had been in a serious accident in which the canopy had flown off of the truck. Ms. Wheeler stated that she was quite upset and "not thinking straight." Ms. Wheeler stated that she had given the police officer who ordered her vehicle towed an insurance card for another vehicle (not the Truck). She stated that the other vehicle and the Truck both were insured (separate policies/#'s/ cards) in her name and in the name of her boyfriend. Ms. Wheeler stated that the next day, when she retrieved the Truck, a tow company employee observed her take a valid insurance card out of the Truck glove compartment. Ms. Wheeler stated that at all times the Truck was insured.

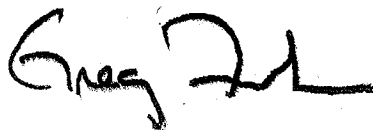
The Hearings Officer must find that a tow is valid if the Hearings Officer finds that the officer ordering the tow followed all relevant rules/laws. In this case, the relevant law is found in Portland City Code 16.30.220 K 1 which states that "Any authorized officer may, without prior notice, order a vehicle towed, when: K. A police officer has probable cause to believe that the vehicle's operator has committed any of the following offenses: 1. Driving uninsured."

The Hearings Officer finds that Ms. Wheeler admitted to have driven the Truck and having been involved in a traffic accident with the Truck. The Hearings Officer finds that Ms. Wheeler admitted that

she provided a single insurance card to the police officer and that card listed another vehicle. The Hearings Officer finds that the police officer then ordered the vehicle towed. The Hearings Officer finds that the police officer was not provided, by Ms. Wheeler, an insurance card demonstrating that the Truck was insured. Therefore, the Hearings Officer finds that the police officer did have probable cause to believe that the Truck was not insured and the officer followed the relevant rules/laws. The Hearings Officer finds 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: September 12, 2008

GJF: cb/rs

Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 23169

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Wheeler, April Lea	Received
2	Note signed by someone on Andy's Towing notepad	Wheeler, April Lea	Received
3	Copy of insurance cards	Wheeler, April Lea	Received
4	Copy of insurance policy information	Wheeler, April Lea	Received
5	Copies of Exh. 3 & 4 on one page	Wheeler, April Lea	Received
6	Tow desk report	Hearings Office	Received
7	Hearing notice	Hearings Office	Received
8	Tow hearing info. sheet	Hearings Office	Received
9	Towed Vehicle Record	Police Records	Received
10	Traffic Crash Exchange Report	Police Records	Received
11	Traffic Violation Tow Report	Police Records	Received
12	Notice of Impoundment Towing	Police Records	Received
13	Citation	Police Records	Received
14	Ownership letter	Hearings Office	Received
15	DMV Notice of Transaction	Wheeler, April Lea	Received