



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF TROY L. KUNAS

CASE NO. 1080291

DESCRIPTION OF VEHICLE: Dodge Ram 2500 (WA B02432G)

DATE OF HEARING: October 7, 2008

APPEARANCES:

Mr. Troy Kunas, Appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole, and receiving Exhibits 1 through 9 into the record without objection, finds as follows:

The towing officer's report (Exhibit 6) stated that on September 15 the appellant's vehicle was parked where temporary no parking signs were posted for construction. The signs read 'No Parking Anytime.' The officer had the vehicle towed.

The appellant stated that he did not see any parking restriction signs when he parked his vehicle that morning. During the day he returned to his vehicle and saw a sign posted that read 'No Parking Sept. 16 to 19.' Since the dates on the sign did not include the day he parked, the appellant did not move his vehicle.

The Hearings Officer finds that the officer's report does not indicate when the temporary no parking signs were posted. Such signs must be posted for a certain length of time before being enforced, to provide adequate notice. Since the officer did not indicate when the signs were posted, they could have been posted after the appellant first parked, which would not have provided sufficient notice. Given that there is not sufficient evidence to show that the signs were posted the required amount of time before the appellant parked, the Hearings Officer finds that there is no need to address whether the sign that the appellant saw indicated no parking the day the appellant parked or the next day.

Given these circumstances, this was an invalid tow. Please note the relevant City Code sections below concerning this matter.

**16.30.210 When a Vehicle May be Towed.**

(Amended by Ordinance Nos. 172788 and 179141, effective March 23, 2005.) A vehicle may be towed and held at the expense of the owner or person entitled to possession thereof from:

A. Any public right-of-way, public park or other public place or property, when:

1. The vehicle is parked in violation of a temporary or permanent parking restriction;

D. Temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area.

E. Temporary parking restrictions may be enforced by tow if the space reservation device and/or signs are in place by 12:30 p.m. the prior day in any meter district.

**16.30.220 Towing Without Prior Notice.**

(Amended by Ordinance Nos. 165980, 170912, 176352, and 176442, effective May 1, 2002.) Any authorized officer may, without prior notice, order a vehicle towed, when:

B. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or at any time and place the vehicle is interfering or reasonably likely to interfere with the intended use of such a space, zone, or traffic lane;

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 the vehicle owner.

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

Dated: October 9, 2008  
IS: rs

  
Ian Simpson, Hearings Officer

Bureau: Police  
Tow Number: 25302

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           | Kunas, Troy L.  | Received    |
| 2         | Tow Desk printout                | Hearings Office | Received    |
| 3         | Hearing Notice                   | Hearings Office | Received    |
| 4         | Tow Hearings Process Info. sheet | Hearings Office | Received    |
| 5         | Towed Vehicle Record             | Police Records  | Received    |
| 6         | Investigation Report             | Police Records  | Received    |
| 7         | 8 1/2 x 11 copies of photos (3)  | Kunas, Troy L.  | Received    |
| 8         | Copy of driver's license         | Kunas, Troy L.  | Received    |
| 9         | Copy of tow receipt              | Kunas, Troy L.  | Received    |