



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF ARLENE BUCK

CASE NO. 1080323

DESCRIPTION OF VEHICLE: Ford Escort (OR RKC096)

DATE OF HEARING: November 4, 2008

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Buck was sent a Notice of Hearing on October 27, 2008. The Notice was not returned by the U.S. Mail Service and Ms. Buck did not contact the Hearings Office prior to the hearing requesting that the hearing be rescheduled. Ms. Buck did not appear at the hearing. The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 10).

Exhibit 1, a letter requesting a tow hearing, provides Ms. Buck's explanation of the reason her vehicle was towed. Ms. Buck stated, in her letter, that "apparently my grandson has just started his job and had failed to pay a previous ticket and his license had very recently been suspended. He had not received notification of this action. Since he had not received this notification, I don't believe the tow was valid." Ms. Buck indicated that her grandson was driving her vehicle prior to its being towed.

The police officer who ordered Ms. Buck's vehicle towed submitted a written report. (Exhibit 6). This report states that Mr. Jeffrey Alan Buck was driving Ms. Buck's vehicle on October 16, 2008 (Ford Escort, 1991, RKC 096) while his driver's license was suspended. The officer indicated the driver's license was suspended on October 9, 2008 for an indefinite period. The officer's report stated that the reason the driver's license was suspended was for driving without proof of insurance. The officer's report stated, in the narrative section, that "I stopped Mr. Buck for fail to wear a seat belt. He was flagged DWS in DMV for Driving Uninsured. I seized the ODL he presented to me for return to DMV."

The Hearings Officer shall find a tow valid if the Hearings Officer finds that the police officer who ordered the vehicle towed followed all relevant laws/rules. In this case, the relevant law/rule is Portland City Code 16.30.220 K.2. This section of the Portland City Code states that a police officer may order a vehicle towed, without prior notice, if the police officer has probable cause to believe the operator of the vehicle was driving with a suspended license. The Hearings Officer finds that the police officer contacted Oregon DMV and was informed that Mr. Jeffrey Alan Buck, the vehicle operator, had a suspended license. The Hearings Officer finds that the officer's contact with the DMV and resulting information that the license was suspended constitutes a substantial objective

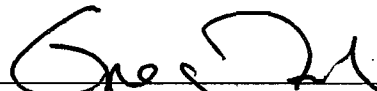
basis, that it is more likely than not that Mr. Jeffrey Alan Buck's license was suspended. The Hearings Officer finds that the police officer ordering Ms. Buck's vehicle towed had probable cause to believe the vehicle operator was driving while suspended. The Hearings Officer finds that the police officer ordering the tow followed the relevant laws/rules. The Hearings Officer finds that the tow is valid.

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: November 5, 2008

GJF: cb



Gregory J. Frank, Hearings Officer

Bureau: Police

Tow Number: 1080323

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Buck, Arlene	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	Traffic Violation Tow Report	Police Records	Received
7	Notice of Impoundment Towing	Police Records	Received
8	Oregon Driver's License	Police Records	Received
9	Vehicle Release	Police Records	Received
10	Returned mail envelope	Police Records	Received