



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 PETER P. CHETNEY

CASE NO. 1080335

DESCRIPTION OF VEHICLE: Mazda B30 Pick-up (OR UDS268)

DATE OF HEARING: November 25, 2008

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Chetney submitted a request for a hearing on November 20, 2008 (exhibit 1). Mr. Chetney was telephoned by a Hearings Clerk on November 21, 2008 and informed of the date/time/place of the hearing. Mr. Chetney informed the Hearings Office that his vehicle remained in storage. The Hearings Officer, per City Code 16.30.410 D, must schedule a hearing within 72 hours of the request for a hearing for a towed vehicle that remains in storage. Tow Hearings Officer Rules and Regulations (ADM-9.03, 2-3) places upon the appellant in a tow case the responsibility to contact the Hearings Office, in a timely manner, regarding the time and place of a hearing. Mr. Chetney did not contact the Hearings Office after he was informed of the date/time/place of the hearing. Mr. Chetney did not, in a timely manner, request a continuance or set over. Mr. Chetney did not appear at the hearing.

Mr. Chetney, in his request for hearing (exhibit 1) stated the following:

"The tow should have never happened for the reasons: the truck was pulled over for expired tags. I showed the officer the truck had valid & current tags registration & insurance. I was able to drive, also my daughter at the scene. She is current & valide to drive. Truck was pulled off road where it was safe and legal to park. The person driving at the time was taken to jail but he still towed the truck. Why? I can't afford this and I need my work truck."

Exhibit 6 is a custody report completed by the police officer ordering the tow. Page 1 of 3 of the custody report stated that Mr. Peter J. Chetney was taken into custody on the basis of a belief by the officer that he was driving while under the influence of alcohol. The address of Peter J. Chetney in the custody report is the same as on the letter from Mr. Chetney requesting this hearing. For the purposes of

this decision, the Hearings Officer finds that the person requesting the hearing (Pete Chetney) and the person taken into custody (Peter J. Chetney) are one and the same person.

Exhibit 7 (page 3 of 3 of the Custody Report), in part states that Mr. Chetney appeared to be "visibly intoxicated." Further, the police officer stated in Exhibit 7, that Mr. Chetney "completed a breath test resulting in a BAC level of .22%."

The Hearings Officer must find a tow valid if the Hearings Officer finds that the officer who ordered a vehicle towed followed the relevant laws/rules. In this case, the relevant law/rule is Portland City Code 16.30.220 K.4. This section of the Portland City Code states that a police officer may order a vehicle towed, without prior notice, if the officer has probable cause to believe that the vehicle's operator was driving while under the influence of intoxicants. In this case, the Hearings Officer finds that the evidence in the record is that Mr. Chetney was driving his vehicle based upon Mr. Chetney's statement that the driver was taken into custody by the police officer. The Hearings Officer finds evidence in the record that the police officer noted that Mr. Chetney was visibly intoxicated. Finally, the Hearings Officer finds the result of Mr. Chetney's alcohol breath test was .22%. The Hearings Officer finds that the police officer who ordered Mr. Chetney's vehicle towed had probable cause to believe that Mr. Chetney was driving while intoxicated. The Hearings Officer finds that the officer ordering the tow followed the relevant rules/laws. Therefore, 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 26, 2008

GJF: cb/rs



Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 30592

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Chetney, Peter P.	Received
2	Tow desk report printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Towed vehicle record	Police Bureau	Received
6	Custody Report	Police Bureau	Received
7	Continuation report	Police Bureau	Received