



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF THOMAS B. CAMPBELL

CASE NO. 1090227

DESCRIPTION OF VEHICLE: Ford Escort (OR KEY987)

DATE OF HEARING: October 15, 2009

APPEARANCES:

None

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 7).

The inspector's report (Exhibit 6) indicated that the appellant's vehicle was reported on the east side of SE 23rd between Salmon and Taylor on August 28, 2009. On September 1st at 9:00 a.m., the inspector placed a tow warning on the vehicle because it was considered to be abandoned. The vehicle had invalid tags and two flat tires. When the inspector placed the warning on the vehicle, it was located at 2300 SE Yamhill, and the inspector forgot to change the address in the report to 2300 SE Yamhill. When the inspector returned on September 9th, she returned to the wrong address and marked the vehicle as gone. When the inspector received the paper work back, she realized she had not changed the address in the report and she issued a citation. The car had not moved, though it was warned, and it was towed. The inspector realized she should have warned the vehicle again. The inspector provided a photograph (Exhibit 7). The Towed Vehicle Record (Exhibit 5) indicated that the vehicle was ordered towed on October 13, 2009 at 4:27 p.m. and towed the next day, October 14, at about 7:00 a.m.

The appellant stated in his letter requesting a hearing (Exhibit 1) that his vehicle was towed as being abandoned; but it was not abandoned. The appellant stated that he called when his vehicle received a citation two weeks earlier, and he sent back the citation stating that the vehicle was not abandoned. He also put a note on the windshield. The appellant stated that he had no notice of the tow, and did not see a green 72 hour sticker. The appellant suggested that since the vehicle had not been towed from the same spot that it had been ticketed, this proved that it was drivable and not abandoned.

The Hearings Officer finds that the City Code authorizes an inspector to tow a vehicle if it is considered abandoned. In this case, the Hearings Officer finds that the inspector placed a tow warning on the appellant's vehicle on September 1, 2009. The Hearings Officer finds that the vehicle having invalid tags and two flat tires were a sufficient basis for the inspector to consider it to be abandoned. The Hearing Officer finds that there was a considerable delay between the tow warning being placed on the vehicle on September 1 and the tow occurring on

October 14th. The Hearings Officer speculates that this delay may have been why the inspector wrote in her report that she should have warned the vehicle again.

The Hearings Officer finds that the City Code does not indicate a deadline for when a vehicle may be towed after the abandoned vehicle warning is placed on it. The Hearings Officer believes that at some point there would be a notice problem if too much time passed between the warning and the tow. In this case, however, the appellant stated that he called (presumably the City) when his vehicle had received a citation two weeks before the tow, and he had placed a note on the vehicle's windshield. The Hearings Officer finds that the appellant therefore had actual notice that his vehicle was considered abandoned by the City, and so there is no notice problem with this case.

Given these circumstances, the Hearings Officer finds that this was a valid tow. Please note the relevant City Code sections below concerning this matter.

Portland City Code 16.20.120 Prohibited Parking or Stopping of a Vehicle.

(Amended by Ordinance Nos. 165594, 166575, 170923, 173369, 176394 and 176955 effective October 9, 2002.) Except when specifically directed by authority of this Title or when necessary to avoid conflict with other traffic, it is unlawful to park or stop a vehicle:

P. In the public right-of-way, public park, or city-owned or operated property if the vehicle is abandoned.

Portland City Code 16.90.005 Abandoned Vehicle.

A vehicle that remains in the same location for more than 24 hours and one or more of the following conditions exist:

A. The vehicle does not have a lawfully affixed, unexpired registration plate.

B. The vehicle appears to be inoperative or disabled.

C. The vehicle appears to be wrecked, partially dismantled or junked.

16.30.225 Towing with 24 Hour or 72 Hour Notice.

(Added by Ordinance No. 166947; amended by 170923, 172788 and 179141, effective March 23, 2005.)

B. A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle if the vehicle is an abandoned vehicle; or

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: October 19, 2009
IS:cb/rs


Ian Simpson, Hearings Officer

Bureau: Abandoned Autos
Tow Number: 20310

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Tow hearing request form	Campbell, Thomas B.	<u>Received</u>
2	Tow desk printout	Hearings Office	<u>Received</u>
3	Hearing notice	Hearings Office	<u>Received</u>
4	Tow hearing info. sheet	Hearings Office	<u>Received</u>
5	Towed Vehicle Record stating tow was Abandoned Autos		
	tow	Police Bureau	<u>Received</u>
6	Tow Hearing Report	Abandoned Autos	<u>Received</u>
7	Photo	Abandoned Autos	<u>Received</u>