



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

LaVonne Griffin-Valade, City Auditor
1900 SW 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
Fax: (503) 823-4347
TDD: (503) 823-6868
www.portlandonline.com/auditor/hearings

HEARINGS OFFICER'S ORDER

APPEAL OF VICTOR SHESTAKOV

CASE NO. 1090251

DESCRIPTION OF VEHICLE: Toyota Celica (KS 225BQY)

DATE OF HEARING: November 24, 2009

APPEARANCES:

Mr. Victor Shestakov, Appellant

Ms. Deborah Barkley, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Shestakov appeared and testified at the hearing on his own behalf. Parking Enforcement Officer Barkley appeared and testified on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Mr. Shestakov and Officer Barkley and the documents admitted into the evidentiary record (Exhibits 1 through and including 11).

Mr. Shestakov testified that he lives in the Goose Hollow area and is an exchange student, from Russia, attending Portland State. Mr. Shestakov stated that he parked his vehicle on November 5, 2009 at approximately 9:00 p.m. and was out of town (in Seattle) for the "weekend." Mr. Shestakov stated that when he returned to the location where he parked his vehicle, on November 9, 2009, it was not there. Mr. Shestakov stated that signs were present when he returned to the location of his parked vehicle on November 9, 2009, but there were not signs present when he parked his vehicle. Mr. Shestakov stated he was not aware of any "24 hour" rule. Mr. Shestakov stated that when he applied for his Zone A parking permit he was not told about any 24 hour parking restrictions and that it is unfair to apply the 24 hour rule in this instance. Mr. Shestakov submitted photos taken earlier on the date of the hearing showing an "A-frame" sign laying on its side and a temporary no parking sign posted on a telephone pole.

Officer Barkley stated that she received a service request, shortly before 7:45 a.m., that vehicles were parked in a temporary no parking zone on SW 17th between SW Columbia and SW Clay. Officer Barkley stated that she checked the placement of the temporary signs on SW 17th in the vicinity of the location where Mr. Shestakov parked and the signs were "verified" on November 6, 2009 at 10:30 a.m. Officer Barkley referred to Exhibit 10 which included three pictures she took prior to Mr. Shestakov's

vehicle being towed. Officer Barkley noted that two pictures show Mr. Shestakov's vehicle in relation to an "A-frame" sign and one picture showed a temporary no parking sign on a telephone pole.

The Hearings Officer shall find a tow valid if the Hearings Officer finds that the person ordering the vehicle towed followed the relevant laws/rules. In this case the relevant laws/rules can be found in Portland City Code ("PCC") 16.30.210 A.1., 16.30.210 D, and 16.30.220 B. PCC 16.30.210 A.1 provides that a vehicle may be towed and held at the expense of the owner if the vehicle is parked in the public right-of-way in violation of a temporary parking restriction. PCC 16.30.210 D states that a temporary parking restriction may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B provides that a parking enforcement officer may order a vehicle towed, without prior notice, if the vehicle is illegally parked in a conspicuously posted restricted space, zone or traffic lane.

The Hearings Officer finds the testimony of both Mr. Shestakov and Officer Barkley to be credible. The Hearings Officer finds that there is no dispute by either Mr. Shestakov or Officer Barkley that the temporary no parking signs were placed in the location of Mr. Shestakov's vehicle on SW 17th more than 24 hours prior to the order of Mr. Shestakov's vehicle towed on November 9, 2009. The Hearings Officer finds that multiple signs were present on the blockface where Mr. Shestakov's vehicle was parked/towed. The Hearings Officer finds that the temporary no parking signs, on the blockface where Mr. Shestakov parked, were conspicuous.

Mr. Shestakov argued that he was not informed that a person holding an area/zone parking permit (Mr. Shestakov has a Zone A permit) is required to move or check his vehicle every 24 hours. PCC 16.20.860 B (relating to area parking permits) specifically states that the display of an area parking permit does not convey any privileges other than that of exceeding the posted permit parking visitor time limit. "It does not authorize parking in any other restricted zone. Permitted vehicles are subject to the provisions of PCC 16.20.170 (Storing Property on street is prohibited.). The 24 hour restriction is found in PCC 16.20.170.

The Hearings Officer finds, in this case, that Officer Barkley followed all relevant laws/rules and therefore the tow of Mr. Shestakov's vehicle 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 25, 2009

GJF:rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 22262

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request form	Shestakov, Victor	Received
2	Hearing request letter	Shestakov, Victor	Received
3	Tow Receipts and Parking Violation	Shestakov, Victor	Received
4	Photos	Shestakov, Victor	Received
5	8/6/09 letter from Rachel Surkin	Shestakov, Victor	Received
6	Tow Desk printout	Hearings Office	Received
7	Hearing Notice	Hearings Office	Received
8	Tow Hearings Process Info. sheet	Hearings Office	Received
9	Tow hearing report	Hearings Office	Received
10	Parking violation w/photos	Hearings Office	Received
11	Photos	Shestakov, Victor	Received