



CITY OF

PORTLAND, OREGON

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Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF MARCELINE CANTERBURY

CASE NO. 1090284

DESCRIPTION OF VEHICLE: Chevrolet Truck (OR HSB172)

DATE OF HEARING: December 9, 2009

APPEARANCES:

Ms. Marcelline Canterbury, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Canterbury appeared at the hearing and testified on her own behalf. No person appeared at the hearing on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Ms. Canterbury and the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

Ms. Canterbury testified that she has lived in the neighborhood where her vehicle was parked and towed for a relatively short time. She stated that she is very diligent in checking her vehicle on a regular basis. Ms. Canterbury stated she checked her vehicle the evening before it was towed and there were no temporary no parking signs present. Ms. Canterbury stated that when she parked her vehicle, the evening before it was towed, she looked carefully for signs and no temporary no parking signs were present.

Ms. Canterbury stated that on the day her vehicle was towed she got up early in the morning to check the vehicle and when she arrived it was gone; but, there were temporary no parking signs ("sawhorse sign") at that time. Ms. Canterbury stated that, other than the "sawhorse" signs she observed on the morning her vehicle was towed, she was unaware that leaf sweeping was planned for the area.

The Parking Enforcement Officer who ordered Ms. Canterbury's vehicle towed on December 9, 2009 submitted two documents into the record (Exhibits 6 and 7). Exhibit 6 indicates that Ms. Canterbury's vehicle was towed at approximately 8:11 a.m. on December 9, 2009. The Parking Enforcement Officer, in Exhibit 6, stated that:

"This was a sweep tow. Barricades were up and verified more than 24 hrs which is required. As you can see in the picture the barricade was behind the van. Only car cited/towed from that blockface."

The Parking Enforcement Officer, on the Parking Violation (Exhibit 7) indicates that the temporary no parking signs were placed and verified at 4:02 p.m. on December 7, 2009. The picture on the left side of the backside of Exhibit 7 shows Ms. Canterbury's vehicle and a "sawhorse" temporary no parking sign.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non-meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice, if the vehicle is illegally parked in a posted restricted space/zone.

The Hearings Officer finds that the statements made by the Parking Enforcement Officer in Exhibits 6 and 7 are more credible than the statements made by Ms. Canterbury with respect to the temporary no parking signs. The Hearings Officer finds that the temporary no parking signs were placed, at the location where Ms. Canterbury's vehicle was parked, at 4:02 p.m. on December 7, 2009, and that the signs were present at all times until Ms. Canterbury's vehicle was towed. The Hearings Officer finds that the temporary no parking signs were up and visible for more than 24 hours before Ms. Canterbury's vehicle was towed. The Hearings Officer finds that the Parking Enforcement Officer who ordered Ms. Canterbury's vehicle towed on December 9, 2009 followed all relevant laws/rules. The Hearings Officer finds the tow of Ms. Canterbury's vehicle on December 9, 2009 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: December 31, 2009

GJF:cb/rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 24431

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Tow appeal form	Canterbury, Marceline	Received
2	Receipt	Canterbury, Marceline	Received
3	Tow desk printout	Hearings Office	Received
4	Hearing notice	Hearings Office	Received
5	Tow hearing info sheet	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation with photos	Parking Enforcement	Received