



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 EUGENE MICHEAL BROWN

CASE NO. 1090288

DESCRIPTION OF VEHICLE: Chevrolet Caprice (WA 479RQC)

DATE OF HEARING: December 30, 2009

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Brown failed to provide a complete address to the Hearings Office and the Notice of Hearing for the hearing on December 30, 2009 was left at the front counter at the Hearings Office. Mr. Brown called and was told that his address was not showing in a faxed hearing request (Exhibit 1) and told to submit a document showing his address. Mr. Brown sent no additional document to the Hearings Office. Mr. Brown did not contact the Hearings Office to inquire as to the hearing date/time and he did not appear at the hearing on December 30, 2009. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 4).

Exhibit 1, Mr. Brown's request for a hearing, includes a description of a police stop of his vehicle that resulted in his vehicle being towed. Mr. Brown stated that the police officer, after he was pulled over, asked him to provide a copy of his driver's license and insurance card. Mr. Brown, in Exhibit 1, stated that his insurance card was current and correct.

No written documents were submitted by the Police Bureau regarding this case.

The Hearings Officer finds that the statement made by Mr. Brown in Exhibit 1 is credible and accurately reflects the events prior to his vehicle being ordered towed on December 11, 2009. There is simply no evidence in the record that conflicts with Mr. Brown's account of the events on December 11, 2009. The Hearings Officer finds that Mr. Brown did have a current driver's license and a current insurance card in his possession on December 11, 2009; the time he was contacted by the police officer who ordered his vehicle towed.

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. In this case the Hearings Officer is not certain why Mr. Brown's vehicle was towed

and therefore does not know what laws/rules to apply. The Hearings Officer finds, based solely upon the evidence in the record, that no reason was provided by the City why Mr. Brown's vehicle was towed. The Hearings Officer finds, based upon the evidence in the record, that it is impossible to determine if the police officer ordering the tow of Mr. Brown's vehicle on December 11, 2009 followed the relevant rules. The Hearings Officer, therefore, must find that the tow of Mr. Brown's vehicle is not valid. The Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges.

It is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

In order for the appellant to receive reimbursement, a complete and legible copy of the towing and storage bill must be furnished to the Hearings Officer by January 29, 2010. Because Mr. Brown did not provide a complete address to the Hearings Office, Mr. Brown must contact the Hearings Office by telephone, fax or in person, to pick up this Order and meet the time deadline set forth earlier in this paragraph.

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: Police
Tow Number: 24563

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Letter	Brown, Eugene Micheal	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received