



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

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HEARINGS OFFICER'S ORDER

APPEAL OF BRUCE CLAY COLE

CASE NO. 1090297

DESCRIPTION OF VEHICLE: Ford Escort (OR VUV910)

DATE OF HEARING: January 7, 2010

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Cole was mailed a Notice of Hearing (Exhibit 3) on December 29, 2009. The Notice of Hearing was not returned as undeliverable by the United States Postal Service. Mr. Cole did not contact the Hearings Office, after the submission of his request for a tow appeal hearing (Exhibit 1) and prior to the scheduled hearing. Mr. Cole did not appear at the hearing. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 11).

Exhibit 1, Mr. Cole's request for a tow hearing, included a statement of the reasons why he did not believe the tow of his vehicle on December 18, 2009 was valid. Mr. Cole stated:

"This was registered to my deceased father at time of tow. I had papers saying there was insurance coverage on the vehicle. I could not find it at the time and officer said there was no insurance on the vehicle. I now have proof of 3 separate insurances on vehicle. Sorry for the inconvenience."

The police officer who ordered Mr. Cole's vehicle towed submitted documents into the record (Exhibits 6, 7, 8, 9, 10 and 11). Exhibit 10 is a copy of a DMV transaction document and an insurance card. The insurance card shows insurance was effective on the date Mr. Cole's vehicle was towed. Exhibit 11 is a copy of a Vehicle Release. Exhibits 7 and 8 are separate pages of the Citation issued to Mr. Cole on the date the vehicle was towed. Exhibit 6 is a Traffic Violation Tow Report prepared by the police officer related to the tow of Mr. Cole's vehicle on December 18, 2009. Page 2 of 2 (Exhibit 6) indicates that the police officer's check of insurance for Mr. Cole's vehicle, on December 18, 2009, indicated that insurance was terminated on July 6, 2009. Exhibit 6 also indicated that Mr. Cole did not have written proof in the vehicle on December 18, 2009, that the vehicle had insurance.

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 and the Oregon Revised Statutes ("ORS") Chapter 806. Specifically, PCC 16.30.220 K.1 applies in this case. Also, ORS 806.010 and ORS 806.011 apply to this case. PCC 16.30.220 K.1 states that a police officer may order a vehicle towed and held at the owner's expense, without prior notice, if the police officer has probable cause to believe that the vehicle operator was driving uninsured (ORS 806.010). ORS 806.011 states, in relevant part, that "failure of the driver of a motor vehicle to show a valid card or other proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010."

The Hearings Officer finds that Mr. Cole admitted that when stopped by the police officer, he was unable to locate a current insurance card (Exhibit 1). The police officer also indicated that Mr. Cole, when contacted on December 18, 2009, was unable to produce for his/her inspection a valid insurance card.

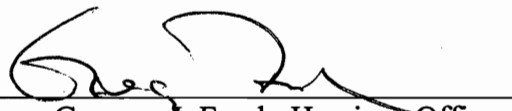
The Hearings Officer finds, based upon the evidence in the record, that on December 18, 2009, Mr. Cole was contacted by a police officer during a traffic stop and Mr. Cole was unable to provide to the police officer a copy of a valid insurance card. The Hearings Officer finds that the police officer had probable cause to believe that Mr. Cole was in violation of ORS 806.010. The Hearings Officer finds that the police officer, in this case, followed the relevant laws/rules. The Hearings Officer finds the tow of Mr. Cole's vehicle on December 18, 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: January 8, 2010

GJF:cb/rs


Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 25186

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Tow appeal form	Cole, Bruce Clay	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info sheet	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Traffic Violation Tow Report	Police Records	Received
7	Oregon Uniform Citation and Complaint	Police Records	Received
8	Issuing Officer's Affidavit	Police Records	Received
9	Notice of Impoundment Towing	Police Records	Received
10	DMV Notice of Transaction Submitted, Oregon Automobile Insurance ID Card, & Oregon Driver License	Police Records	Received
11	Vehicle Release	Police Records	Received