



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

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HEARINGS OFFICER'S ORDER

APPEAL OF NORMAN G. HARRIS, III

CASE NO. 1100050

DESCRIPTION OF VEHICLE: Chrysler Cirrus (NJ YCD65B)

DATE OF HEARING: March 25, 2010

APPEARANCES:

Mr. Norman Harris, III, Appellant

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Mr. Harris appeared at the hearing and testified on his own behalf. No person appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the testimony of Mr. Harris and the documents admitted into evidence (Exhibits 1 through and including 6).

Mr. Harris testified that on St. Patrick's Day evening he parked his vehicle close to Dixie's on N.W. 3rd. He said he parked his vehicle in front of a dumpster and did not see any no parking signs. Mr. Harris testified that he purchased a parking sticker from a meter about five feet behind the space and came back to put it on the window. When he returned about an hour later, the car was gone. Mr. Harris submitted three photos for the Hearings Officer's consideration (Exhibit 6) that he stated were taken on the night the vehicle was towed. The first photo shows a dumpster partially blocking a sign that states "Reserved for Police Vehicles Only" with an arrow pointing in front of the dumpster and a small tow icon below. Below that sign is a "Pay to Park" sign that points away from the dumpster. The second photo shows a vehicle parked in the parking space behind the dumpster. The third photo shows the dumpster within the parking space where Mr. Harris explained his vehicle was parked. From this angle the signs are not visible, however, there are lines painted on the pavement that surround the dumpster and continue on parallel to the sidewalk, seemingly to indicate a reserved parking spot.

A Towed Vehicle Record submitted by the Portland Police Bureau (Exhibit 5) indicates the car was ordered towed at 11:09 p.m. on March 17, 2010, for violating a "Tow Away" Zone.

The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules can be found in the Portland City Code ("PCC") Title 16. PCC 16.20.205B states that "a sign without stated hours or days which regulates parking zones ... is in effect all hours of all days, including City recognized holidays." PCC 16.30.210A1 permits a vehicle to be towed when it is in violation of a permanent parking restriction. PCC 16.20.220B permits a tow without prior notice when the vehicle is illegally

parked in a "conspicuously posted restricted space, zone, or traffic lane where parking is limited to designated classes of vehicles."

The Hearings Officer finds that Mr. Harris' vehicle was parked illegally in a space reserved for Police Vehicles Only. The Hearings Officer finds that this spot was clearly marked by signage, which included an arrow to make clear which spot was reserved and an icon of a tow truck towing a vehicle to indicate the penalty. While the photos do illustrate that from some angles the dumpster that was placed partially in this parking spot does block the view of the signs, the Hearings Officer finds the sign still clearly visible from behind the dumpster (where Mr. Harris would have walked to purchase his parking permit and then to place it on his window) and in addition, the space is clearly marked as restricted by lines painted on the street. The fact that Mr. Harris apparently did not see the sign due to the dumpster's position or the lines painted on the street does not relieve his responsibility to ensure he is parked in a valid parking space. The vehicle was properly ordered towed and no notice was required because it was parked illegally in a posted restricted space.

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: March 26, 2010
CAAS:rs/cb


Christina A. Austin-Smith, Hearings Officer

Bureau: Police
Tow Number: 5037

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request form	Harris, Norman G.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Photos (3 pages)	Harris, Norman G.	Received