



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

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HEARINGS OFFICER'S ORDER

APPEAL OF CHALEIGHA LEWIS

CASE NO. 1100061

DESCRIPTION OF VEHICLE: Chrysler 300M (OR WSL275)

DATE OF HEARING: April 15, 2010

APPEARANCES:

None

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes Exhibits 1 through and including 6, which the Hearings Officer finds relevant to this case.

Chaleigha Lewis, the appellant in this case, did not appear at the hearing, but did submit a handwritten letter challenging the validity of the tow that was received by the City of Portland Hearings Office on April 6, 2010 (Exhibit 1). On April 7, 2010, the Hearings Office mailed the appellant a Notice of Hearing scheduled for April 15, 2010, at 1:45 p.m. (Exhibit 3). This notice was not returned as undeliverable, nor did the appellant contact the Hearings Office prior to the hearing via telephone, in person or fax.

Summary of Evidence:

Chaleigha Lewis' letter challenged the validity of the tow on several bases. First, that there was a sign that indicated "pay to park from 12 a.m. til 7 p.m." posted above a sign that says "No Parking from 6 p.m. til 12 a.m. all days, except passenger loading." The appellant states this was confusing. Additionally, the appellant indicates being parked behind the yellow line on the curb. Appellant also challenges the tow because nothing on the website printed on the back of the ticket states, "a car will be towed if parked in a passenger loading zone," and no such sign was at the location where the appellant's vehicle was towed. The appellant goes on to explain that payment was made to park in that location at 6:45 p.m.. Appellant paid 40 cents to run through 7 p.m., when the meter would no longer accept money.

Parking Enforcement Officer J. Sasnett submitted a written report of the tow (Exhibit 5) and copies of the citation and photos of the vehicle (Exhibit 6). Officer Sasnett wrote: "I received a service request for the veh in question. I issued the citation because the signs were clearly posted. I ordered the tow on request to clear the zone." The report indicates the tow was ordered at 7:31 p.m. on March 31, 2010. There is a photo of the No Parking sign that

indicates no parking between 6 p.m. and 12 a.m. ALL DAYS EXCEPT PASSENGER LOADING. A different picture shows the appellant's car in this slot and a Pay to Park sign can be seen posted above the No Parking sign.

Applicable Law:

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 16.90.295 defines a "regulated parking zone" as "a space adjacent to a curb or curb line, designated by official signs or markings, where special regulations for parking or stopping a vehicle apply in addition to the general parking regulations that apply to all parking areas in the public right-of-way, or on City of Portland owned or operated property." PCC 16.20.205 governs enforcement of regulated parking zones. PCC 16.20.205C states "a sign which prohibits parking during certain hours or days such as "No Parking 7 a.m. to 9 a.m. Monday through Friday" . . . is in effect during the days and times shown on the sign, excluding City recognized holidays. PCC 16.20.205D states "For a parking sign which has an arrow, the direction in which the head of the arrow points is the direction that the regulation is in effect." PCC 16.30.210A1 permits a vehicle to be towed when in violation of a permanent parking restriction. PCC 16.30.220B permits a tow without prior notice when the vehicle is illegally parked in a conspicuously posted restricted zone.

Findings of Fact and Conclusions of Law:

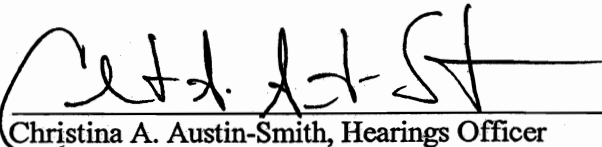
The Hearings Officer finds that by Chaleigha Lewis' own admissions, on March 31, 2010, appellant was parked at 6:45 p.m. in a parking space that was clearly marked as No Parking 6 p.m. until 12 a.m. ALL DAYS, EXCEPT PASSENGER LOADING. Chaleigha Lewis was not loading passengers, as the appellant indicates paying the meter, later returning to pay more money, and then returning to a restaurant. The Hearings Officer finds this parking space was conspicuously marked as No Parking in the designated hours. While the Pay-to-Park sign obviously caused the appellant some confusion, the parking space is an authorized Pay-to-Park space outside of the posted, prohibited hours. Per PCC 16.20.205C, this was a regulated parking space prohibiting parking during the time when Chaleigha Lewis was parked in the space. PCC 16.30.210A1 allows a vehicle to be towed in this circumstance and no notice was required per PCC 16.30.220B.

Order:

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: April 16, 2010
CAAS:cb


Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 5865

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Lewis, Chaleigha	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow hearing report	Parking Enforcement	Received
6	Violation notice data sheet w/photos	Parking Enforcement	Received