



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF TAMARA SCHAMUHN

CASE NO. 1110035

DESCRIPTION OF VEHICLE: Honda Civic (AB CTE042)

DATE OF HEARING: March 31, 2011

APPEARANCES:

Ms. Tamara Schamuhn, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Tamara Schamuhn appeared at the hearing and testified on her own behalf. No one 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 Ms. Schamuhn and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Schamuhn submitted a written request (Exhibit #1) and photograph (Exhibit #2) for the Hearings Officer's consideration. Ms. Schamuhn indicated in her written request that she parked her vehicle in front of her apartment. There was a sign reading "No parking in this space 6 am-5 pm 3/21/11"; however, the arrow only pointed to the right (west). Ms. Schamuhn writes that she parked to the left (east) of the sign. Ms. Schamuhn indicates that her vehicle was towed on March 21, 2011. Ms. Schamuhn appeared at the hearing and testified consistent with her written request. Ms. Schamuhn testified that she parked her vehicle at approximately 12:05 p.m. on March 21, 2011, and that she checked the No Parking sign numerous times to ensure that her vehicle was legally parked. Ms. Schamuhn indicated that it was approximately 7:30 p.m. the same day that she discovered that her vehicle had been towed. Ms. Schamuhn was provided with a copy of Exhibit #7, photos from the parking enforcement division, prior to testifying. Ms. Schamuhn testified that the sign must have been moved after she parked her vehicle.

The City submitted documents 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a written report from the Office of Transportation Parking Enforcement Division indicating that Ms. Schamuhn's vehicle was towed on March 21, 2011 from SW Clay between SW 14th and SW 17th. The call to Parking Enforcement regarding the vehicle was received at 1:18 p.m. The report reads, "Barricade was towards front of car when I arrived on scene. Barricades were for tree trimming. There were trees to be trimmed over car." The report indicates that the sign read, as Ms. Schamuhn indicated, that parking was prohibited to the right of the sign

between 6 a.m. and 5 p.m. on March 21, 2011. The report indicates that the no parking sign was verified on March 17, 2011 at 10:00 a.m. Exhibit #7 is a copy of three photos taken of Ms. Schamuhn's vehicle and the area where it was parked prior to towing. The bottom left photo shows the vehicle and a No Parking sign. The sign is on the passenger side of the vehicle and appears to be located between the front and the midpoint of the vehicle. Exhibit #8 is a copy of the parking citation issued to Ms. Schamuhn.

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 16.30.210D provides that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.210A1 allows for the tow of a vehicle from any public right-of-way when the vehicle is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220B allows a tow to occur without notice to the owner when the vehicle is parked illegally in a conspicuously posted restricted space.

Findings of Fact and Conclusions of Law:

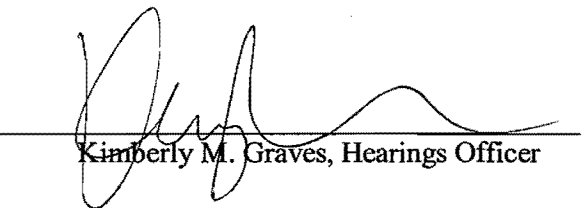
The Hearings Officer finds that SW Clay is a public right-of-way. On March 17, 2011 at 10:00 a.m., the Parking Enforcement Division verified a No Parking sign on SW Clay between 14th and 17th. The enforcement of such sign was valid 24 hours after verification per PCC 16.30.210D. On March 21, 2011 at approximately 12:05 p.m., greater than 24 hours after verification, Ms. Schamuhn parked her vehicle on SW Clay. The Hearings Officer finds that the photos provided in Exhibit #7 were taken approximately one hour after Ms. Schamuhn testified that she parked her vehicle, and the photos are the best evidence of where Ms. Schamuhn's vehicle was parked in relation to the No Parking sign. The Hearings Officer finds that based on the photos, Ms. Schamuhn parked her vehicle in a space which was subject to a temporary no parking restriction. The Hearings Officer finds that Ms. Schamuhn's vehicle was parked in violation of PCC 16.30.210A and the tow of Ms. Schamuhn's vehicle was valid.

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 1, 2011
KMG:rs



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 5240

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Schamuhn, Tamara	Received
2	Photo	Schamuhn, Tamara	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Photo page	Parking Enforcement	Received
8	Parking Violation print-out	Parking Enforcement	Received