

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

APPEAL OF Melissa McLaughlin

CASE NO. 1110044

DESCRIPTION OF VEHICLE: Cadillac Catera (OR 636CPB)

DATE OF HEARING: April 14, 2011

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. McLaughlin, following the receipt of her request for a tow hearing, was sent a Notice of Hearing on April 6, 2011. The mailed Notice of Hearing was not returned by the United States Postal Service as undeliverable. Ms. McLaughlin did not contact the Hearings Office after the Notice of Hearing was mailed. Ms. McLaughlin did not appear at the hearing on April 14, 2011. No person appeared at the hearing on behalf of the City. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 6).

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. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.30.100 A.2, PCC 16.30.210 A.5 and PCC 16.30.220 F. PCC 16.30.100 A.2 grants authority to a police officer to order a vehicle towed if the vehicle is stolen and is on either public or private property and the vehicle is towed/stored at the owner's expense. PCC 16.30.210 A.5 authorizes a police officer to order a vehicle towed and held at the expense of the owner if the vehicle is located on the public right-of-way and the vehicle has been reported stolen. PCC 16.30.220 F authorizes a police officer, without prior notice, to order a vehicle towed if the police officer reasonably believes the vehicle is stolen.

Ms. McLaughlin, in her written tow hearing request, stated that the reason she believed that the tow of her Cadillac Catera (OR 636 CPB) on or about March 23, 2011 was not valid to be "my car was not reported stolen." (Exhibit 1, page 2, paragraph 6) Ms. McLaughlin provided no additional statements or evidence related to the tow of her vehicle.

Portland Police Officer Holloway, the police officer who ordered Ms. McLaughlin's vehicle towed on or about March 23, 2011, submitted a written "Investigation Report." (Exhibit 6) Officer Holloway, on page 1 of the Investigation Report stated "vehicle towed as possible unreported stolen." (Exhibit 6) Officer Holloway, on page 2 of the Investigation Report included the following narrative:

"caller who gave only first name said this car has been here since about the 18th and it has not moved. Inside were letters with names and addresses which when I tried to contact anyone I was not getting any where. I found a number in PPDS for the owner but it was no longer in service. I went to the registered owner's address but no one except the dogs were home. Noticing the insurance was recently put on the car and all the above failed attempts to get a hold of the registered owner and the condition of the car I towed the car as a possible unreported stolen. I left a business card at her residence. Car had a black bag with college books on the back seat, an oxygen tank (mini) and children items as well."

Officer Holloway noted, on page 2 of the Investigation Report that the "driver door window broken out."

The issue that must be decided by the Hearings Officer, based upon the relevant laws/rules and statements/evidence above, is whether or not Officer Holloway had a reasonable belief that Ms. McLaughlin's vehicle had been stolen (prior to its being ordered towed on or about March 23, 2011).


The Hearings Officer finds that Officer Holloway had been informed that Ms. McLaughlin's vehicle had been at the same location, without being moved, from about February 18, 2011 to March 23, 2011. The Hearings Officer finds that the Officer stated that the driver's side window had been broken out. The Hearings Officer finds that Officer Holloway attempted, but unsuccessfully, to make contact with the owner and others persons (listed on letters found in Ms. McLaughlin's vehicle) to determine the status of Ms. McLaughlin's vehicle. The Hearings Officer finds, based upon the evidence in the record, Officer Holloway did reasonably believe that Ms. McLaughlin's vehicle had been stolen. The Hearings Officer finds that Officer Holloway had the right, under PCC 16.30.220 F to order Ms. McLaughlin's vehicle towed on or about March 23, 2011. The Hearings Officer finds the tow of Ms. McLaughlin's vehicle (Cadillac Catera - OR 636 CPB) on or about March 23, 2011 is valid.

ORDER:

1. The tow of Ms. McLaughlin's vehicle (Cadillac Catera - OR 636 CPB) on or about March 23, 2011 is valid; Ms. McLaughlin's appeal is denied.
2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 19, 2010
GJF:jeg

Enclosure


Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 5335

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	McLaughlin, Melissa	<u>Received</u>
2	Tow Desk printout	Hearings Office	<u>Received</u>
3	Hearing Notice	Hearings Office	<u>Received</u>
4	Statement of Rights and Procedures	Hearings Office	<u>Received</u>
5	Towed Vehicle Record	Police Records	<u>Received</u>
6	Investigation Report	Police Records	<u>Received</u>