



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF JUSTIN FIELDS

CASE NO. 1110046

DESCRIPTION OF VEHICLE: Mercedes Benz C320 (OR CK79854)

DATE OF HEARING: April 19, 2011

APPEARANCES:

Justin Fields, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Fields appeared at the hearing and testified on his 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 Mr. Fields and the documents admitted into evidence (Exhibits 1 through and including 13).

Summary of Evidence:

Mr. Fields submitted a typewritten request for a hearing, Exhibits 1 and 1a, in which he lists four reasons that he would like to have a hearing regarding the tow of his vehicle. Mr. Fields writes that 1. his vehicle was legally parked; 2. there was confusion between the city and the tow company regarding the release of his vehicle; 3. the only reason given for the tow of the vehicle was that the vehicle was in a no parking zone; 4. the tow company did not have "modern towing capabilities."

Mr. Fields appeared at the hearing and testified on his own behalf. Mr. Fields testified that since the traffic stop and tow on April 1, 2011, he has returned to the area where he was stopped and found that the block is posted as a no parking zone. Mr. Fields testified that there is one sign on the block that reads "No Parking this block." Mr. Fields testified that the sign was not near his vehicle and that he did not see it when he stopped his vehicle. Next, Mr. Fields testified that upon contacting the City and the tow company regarding his vehicle, he received conflicting information about whether a "release" was needed. Mr. Fields testified that his vehicle was towed for being in a no parking zone, which would not require a release. Mr. Fields testified that after the City representative and the tow company representative spoke, the basis for the tow was changed to "hazard" (see Exhibit 10) and as a result he had to pay a release fee to get his vehicle. Mr. Fields submitted exhibits 10 through, and including, 13 for the Hearings Officer's consideration. Exhibit 12 appears to include copies of three State of Washington driver's licenses for Mr. Fields. Mr. Fields testified that the top license, with an expiration date of March 19, 2011, is the license that he had with him on April 1, 2011 when he was stopped. Mr. Fields testified

that the other licenses are a temporary license and his new permanent license showing that he is licensed to drive until 2016.

Mr. Fields testified that he believes the tow of his vehicle is invalid because he was a licensed driver and his vehicle was not a hazard to other drivers.

The City submitted Exhibits 5 through, and including, 8 for the Hearings Officer's consideration. Exhibit 8 is a copy of the Traffic Violation Tow Report written by Officer Scruggs. The report indicates that Mr. Fields stopped his vehicle on NE Multnomah between 83rd and 82nd Avenues. The Officer writes that the vehicle was stopped in a No Parking zone. Upon checking Mr. Fields' operator's license, the officer writes "he showed no license in Oregon and his Washington license was expired." In the report, the Officer indicates multiple reasons why he requested a tow for Mr. Fields' vehicle. On page 2, Officer Scruggs marked a box noting that he had the vehicle towed because Mr. Fields did not have driving privileges. On page 3, Officer Scruggs writes in the narrative portion of his report "I then had a cover officer request a tow since his vehicle was parked in a No parking Zone and was a hazard due to its location just off a freeway exit on a fairly narrow road."

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 16.30.210A1 provides that a vehicle may be towed from any public right-of-way when the vehicle is parked in violation of a temporary or permanent parking restriction. PCC 16.30.210A2 provides that a vehicle may be towed from any public right-of-way when it is parked unlawfully or in a manner that may be hazardous to traffic. PCC 16.30.220A allows any authorized officer to tow a vehicle, without prior notice, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic. PCC 16.30.220B allows any authorized officer to tow a vehicle, without prior notice, if the vehicle is illegally parked in a conspicuously posted restricted zone. PCC 16.30.220K3 allows any authorized officer to tow a vehicle, without prior notice, if the Officer has probable cause to believe that the vehicle operator has committed the offense of operating a vehicle without driving privileges and the operator's license has been expired for 60 days or more.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on April 1st, 2011, Mr. Fields parked his vehicle on NE Multnomah, a public right-of-way. The Hearings Officer finds that the requirements of PCC 16.30.220K3 were not met, and a tow of Mr. Fields vehicle based solely on his failure to have valid driving privileges would not be valid. The Hearings Officer finds that the Officer's report lacks sufficient information to allow this Hearings Officer to conclude that Mr. Fields' vehicle was a hazard to other traffic or was impeding traffic. Therefore, a tow of Mr. Fields vehicle as a hazard would not be valid. The Hearings Officer finds that the vehicle was parked in a posted No Parking zone. The Hearings Officer finds that Mr. Fields failure to have valid driving privileges prevented him from being able to lawfully remove the vehicle from the scene, and therefore the vehicle was deemed to be parked in its current location. The Hearings Officer finds that under PCC 16.30.210, a vehicle may be towed when it is parked in violation of a permanent parking restriction. The Hearings Officer finds that the tow of Mr. Fields vehicle, for being parking in a no parking zone, is valid.

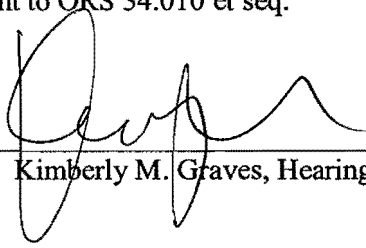
Order:

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 20, 2011

KMG:jeg/rs



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 5932

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Fields, Justin	Received
1a	Letter from Justin Fields	Fields, Justin	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
5a	Towed Vehicle Record Comments	Police Records	Received
6	WA Driver's License copy	Police Records	Received
7	Vehicle Release	Police Records	Received
8	Traffic Violation Tow Report	Police Records	Received
9	Opening Comments	Hearings Office	Received
10	Tow Desk Report	Fields, Justin	Received
11	Aerial photo	Fields, Justin	Received
12	Driver's license copies	Fields, Justin	Received
13	Photo	Fields, Justin	Received