



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF CAROLYN HENDERSON

CASE NO. 1110085

DESCRIPTION OF VEHICLE: Chevrolet Van (OR ZMB969)

DATE OF HEARING: June 23, 2011

APPEARANCES:

Ms. Carolyn Henderson, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Henderson 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. Henderson and the documents admitted into evidence (Exhibits 1 through and including 7a).

Summary of Evidence:

Ms. Henderson submitted a Tow Hearing Request Form, Exhibit 1, in which she detailed the reasons she believes the tow of her vehicle is invalid. Ms. Henderson indicates that her vehicle is not "abandoned" as indicated on the "ticket". Ms. Henderson writes that she has recently had surgery and was unable to drive her vehicle. Ms. Henderson writes that the left front tire had a slow leak and that her son pumped up the tire. Ms. Henderson writes that the battery in the van was "dead" and that her kids tried to deal with it, but nothing worked. Ms. Henderson writes that she called AAA for the van and they arrived at the same time as the tow truck. Ms. Henderson writes that after the van was towed she did not realize that there was a daily storage fee, and as a result she did not pick up her van for a number of days. It was not until after she retrieved her van that a letter was received in the mail regarding the tow and the steps to take to get the van back. Ms. Henderson appeared at the hearing and indicated that she wished to rely on her Hearing Request form and did not have further testimony to present.

The City submitted Exhibits 5 through, and including, 7a for the Hearings Officer's consideration. Exhibit 5 is a narrative report from the Office of Transportation Abandoned Auto Section. The report indicates that the van was found "where reported" on June 2, 2011 at 8:09 a.m. The left front tire was flat. A 72 hour tow warning notice was affixed "on the street side of the drivers (sic) window" indicating that the vehicle "appears inoperative." The report indicates that the parking enforcement officer returned on June 6, 2011 and found the vehicle in the same condition and with the warning still on the window. The vehicle was towed on June 7, 2011 from SW Custer St.

Applicable Law:

The Hearings Officer must find a tow is valid if the Hearings Officer finds that 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 16.90.005 defines, for the purposes of towing a vehicle in Portland, the term "abandoned." A vehicle is deemed to be abandoned if the vehicle remains in violation for more than 24 hours and if the vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration or the vehicle appears inoperative or disabled. An "abandoned" vehicle may be towed and stored at the owner's expense if the vehicle is parked in the public right-of-way. (PCC 16.30.210 A.10) A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle (PCC 16.30.225 B.).

Findings of Fact and Conclusions of Law:

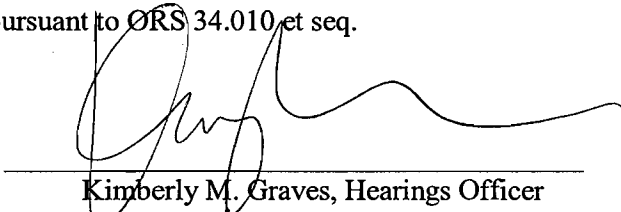
The Hearings Officer finds that SW Custer is a public right-of-way. The Hearings Officer finds that on June 2, 2011 Ms. Henderson's vehicle was parked on the public right-of-way and appeared inoperative due to a flat tire. The Hearings Officer finds that notice of intent to tow the vehicle was properly affixed to the vehicle on June 2, 2011 by a member of the Abandoned Autos section of the Office of Transportation. The Hearings Officer finds that the vehicle remained on the public right-of-way and inoperative for greater than 24 hours, thus meeting the definition of an abandoned auto under the PCC. The Hearings Officer finds that the vehicle was towed greater than 72 hours after notice was affixed to the vehicle. The Hearings Officer finds the tow of Ms. Henderson's vehicle on June 7, 2011 to be 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: June 24, 2011
KMG:rs/jeg


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 10138

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Henderson, Carolyn	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Abandoned Autos	Received
6	Detail for Case No.: AUT2011-005622	Abandoned Autos	Received
7	Violation Notice Data Sheet	Abandoned Autos	Received
7a	Photo printout page (larger)	Abandoned Autos	Received