



CITY OF PORTLAND

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Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Katie Schumacher

CASE NO. 1120116

DESCRIPTION OF VEHICLE: Ford Taurus (MN UYY 739)

DATE OF HEARING: July 3, 2012

APPEARANCES:

Ms. Katie Schumacher, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Katie Schumacher ("Schumacher") appeared at the hearing and testified on her own behalf. No person appeared at the hearing to testify on behalf of the City of Portland ("City"). The Hearings Officer makes this decision based upon the testimony of Schumacher and the documents admitted into the evidentiary record (Exhibits 1 through and including 10).

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 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice if the vehicle is illegally parked in a posted restricted space/zone.

Schumacher stated that she returned home late (approximately 11:30 p.m.) on Thursday, June 21, 2012. Schumacher stated that she took care to look around her the location where she parked her vehicle (Ford – Minnesota license UYY 739). Schumacher stated that an employee of the tow company that had towed the Schumacher vehicle had not seen a temporary no parking sign when the vehicle was towed.

The City Parking Enforcement Officer who ordered the Schumacher vehicle towed submitted documents into the evidentiary record (Exhibits 5, 6, 7, 8, 9 and 10). The Parking Enforcement Officer, in Exhibit 5, states the following:

"I received a service request from the employee working the temporary no parking zone (used for valet parking) at the NW corner of NW 21st Ave and Everett St. I came in to the Portland Building, verified the installation date (6/21/12 @ 3:28 p.m.) and cited and towed the vehicle.

2 bags for 40 ft of reserved space. One bag mounted on traffic cone, the other over existing parking sign. See photos. Signs installed more than 24 hours prior to enforcement and verified by a parking enforcement officer."

Exhibit 6 indicates that a parking citation was issued at 9:20 p.m. on June 22, 2012. Exhibit 7 contains four color photographs; Exhibits 8, 9 and 10 are enlargements of three of the Exhibit 7 photos. The upper left corner photo (Exhibit 7 and enlarged on Exhibit 9) shows a vehicle with license UYY 739 and a temporary no parking sign behind the vehicle. The upper right hand corner photo (Exhibit 7 and enlarged on Exhibit 8) shows a close-up of a temporary no parking sign.

The Hearings Officer finds that the photos (Exhibits 7 through 10) clearly show at least one temporary no parking sign in close proximity to the Schumacher vehicle. The Hearings Officer finds that the one temporary no parking sign shown on Exhibit 7 (enlarged on Exhibit 9) negates the comment by the tow company operator that he/she did not see a temporary no parking sign at the time of the tow. The Hearings Officer finds that the statement that a Parking Enforcement Officer verified the existence of the two temporary no parking signs, in the vicinity of the Schumacher vehicle, at 3:28 p.m. on June 21, 2012, is credible. The Hearings Officer finds Schumacher's statement that she did not see the temporary no parking signage at 11:30 p.m. on June 21, 2012 is less credible and as such the Hearings Officer gave it less weight in making a decision.

The Hearings Officer finds that temporary no parking signs were placed and verified at approximately 3:28 p.m. on June 21, 2012. The Hearings Officer finds that temporary no parking signs were present at the time the Parking Enforcement Officer ordered the Schumacher vehicle towed at 9:20 p.m. on June 22, 2012. The Hearings Officer finds that the temporary no parking signs, in the vicinity of the Schumacher vehicle, were in place for more than 24-hours prior to the Schumacher vehicle being ordered towed by the City. The Hearings Officer finds that the Parking Enforcement Officer who ordered the Schumacher vehicle towed on June 22, 2012, followed all relevant laws/rules. The Hearings Officer finds that the City ordered tow of the Schumacher vehicle on June 22, 2012, is valid.

ORDER:

1. The City of Portland ordered tow of the Schumacher vehicle (Ford – Minnesota license UYY 739) is valid; Schumacher's tow hearing 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: July 5, 2012

GJF: c2



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 9933

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Schumacher, Katie	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA11440139	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Large Photo	Parking Enforcement	Received
9	Large Photo	Parking Enforcement	Received
10	Large Photo	Parking Enforcement	Received