



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF SHELBY WILLIAMS

CASE NO. 1120131

DESCRIPTION OF VEHICLE: Honda Accord (WA AHS3266)

DATE OF HEARING: July 24, 2012

APPEARANCES:

Ms. Shelby Williams, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Williams 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. Williams and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Ms. Williams submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on July 12, 2012 between 11:00 p.m. and 12:00 Midnight. Ms. Williams writes, "Proof of insurance was not in the vehicle at the time of tow although the vehicle is insured." Ms. Williams appeared at the hearing and testified that she was pulled over on I-205 close to Sandy Boulevard. Ms. Williams testified that when the officer asked her whether she had insurance on the vehicle, she stated "no." Ms. Williams testified that at no time prior to her vehicle being towed did she indicate to the officer that the vehicle was insured. Ms. Williams submitted Exhibit 9, a copy of her insurance card for the vehicle, showing that her vehicle was insured at the time of the tow.

The City submitted Exhibits 5 through, and including 8, regarding the tow of Ms. Williams' vehicle. Exhibit 5 is a Towed Vehicle Record showing that Ms. Williams vehicle was towed because it lacked insurance. Exhibit 6 is a Traffic Violation Tow Report written by Officer Piombo of the Portland Police Bureau. The report indicates on page 2 that the vehicle was registered to Ms. Williams and that Ms. Williams "had no proof of insurance and stated they had no insurance." Exhibit 7 is a Notice of Tow again showing that the vehicle was towed because it was uninsured. Exhibit 8 is a copy of the Citation issued to Ms. Williams when her vehicle was towed.

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 and the Oregon Revised Statutes ("ORS"). ORS 806.011 provides that;

"an unexpired card issued as provided in ORS 742.447, or other current proof of compliance with financial or future responsibility requirements approved by rule by the Department of Transportation, shall be carried in each motor vehicle that is operating in this state . . . Failure of the driver of a motor vehicle to show a valid card or other proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010." (Emphasis added.)

ORS 806.010 indicates that a person commits the offense of driving uninsured if the person operates a motor vehicle without being insured under a motor vehicle liability insurance policy. PCC 16.30.220K1 authorizes an officer to tow a vehicle, without notice, when the officer has probable cause to believe that the vehicle's operator has committed the offense of Driving Uninsured under ORS 806.010.

Findings of Fact and Conclusions of Law:

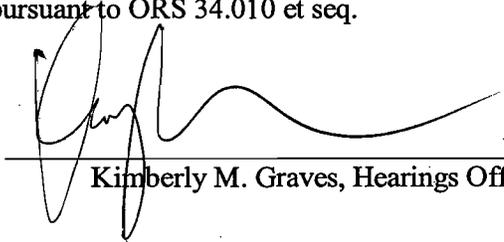
The Hearings Officer finds that on July 12, 2012, Ms. Williams was stopped by a police officer while driving her vehicle. The Hearings Officer finds that Ms. Williams' vehicle was stopped along the freeway after dark and in an area which left it subject to vandalism or theft, and which may create a hazard for other drivers. The Hearings Officer finds that Ms. Williams indicated to the police officer conducting the stop that the vehicle was uninsured. The Hearings Officer finds that based on Ms. Williams' statement, the officer has probable cause to believe that she had committed the offense of Driving Uninsured under ORS 806.010. The Hearings Officer finds the tow of Ms. Williams' vehicle 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: August 2, 2012
KMG:c1



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 10959

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Williams, Shelby	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
6	Traffic Violation Tow Report	Police Records	Received
7	Notice of Tow	Police Records	Received
8	Oregon Uniform Citation & Complaint	Police Records	Received
9	Evidence of Insurance	Williams, Shelby	Received