



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF NATHAN SCHULMAN

CASE NO. 1120173

DESCRIPTION OF VEHICLE: Dodge Caravan (OR 978CPD)

DATE OF HEARING: October 9, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Schulman did not appear at the hearing. Mr. Schulman contacted the Hearings Office on October 8, 2012 and asked for information regarding the hearing process. Mr. Schulman was told that if he could not attend his hearing in person, he could submit any written information he wanted the Hearings Officer to consider in writing. 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 documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Mr. Schulman submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on September 15, 2012 from NE 43rd and NE Sandy Blvd. Mr. Schulman writes in Exhibit 1 that "There were no signs of tow away zone or no parking signs. I was parked legally. The only sign was at the other end of the block with arrow pointing to the corner. I have no idea why I was towed." Mr. Schulman submitted a type-written letter, Exhibit 9, on October 8, 2012 for the Hearings Officer's consideration. The type-written letter again indicates that Mr. Schulman believed that his vehicle was legally parked prior to towing.

The City submitted Exhibits 5 and 6 for the Hearings Officer's consideration. Exhibit 5 is a Towed Vehicle record indicating that the vehicle was towed on September 15, 2012. Exhibit 6 is an Investigation Report from the Portland Police Bureau. The report indicates that on September 15, 2012 the officer observed Mr. Schulman's vehicle parked "on NE 43rd where a street fair is scheduled to take place today." The report says that signs were placed along the street indicating that the area was a no parking zone from 7:00 a.m. to 5:00 p.m. The report indicates that the vehicle was cited and towed for parking in a "no parking area."

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. 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 conspicuously posted restricted space/zone.

Findings of Fact and Conclusions of Law:

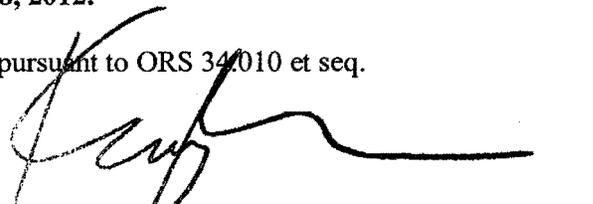
The Hearings Officer finds that on September 15, 2012 Mr. Schulman’s vehicle was parked on NE 43rd Ave in an area which was subject to a temporary parking restriction. The Hearings Officer finds that temporary parking restrictions are enforceable by tow 24 hours after placement of the signs in any non-meter area. The Hearings Officer finds that the city has failed to provide any information about when the temporary no parking signs were placed, and whether they were verified by the city. The Hearings Officer finds that the city has failed to provide sufficient information to support the tow of Mr. Schulman’s vehicle. The Hearings Officer finds the tow of Mr. Schulman’s vehicle is invalid.

Order:

Therefore, the Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

In order for the appellant to receive reimbursement, a complete and legible copy of the towing and storage bill must be furnished to the Hearings Officer by November 8, 2012.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.



Kimberly M. Graves, Hearings Officer

Dated: October 10, 2012
KMG:c1/ml

Enclosure

Bureau: Police
Tow Number: 14291

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Schulman, Nathan	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	Investigation Report	Police Records	Received
7	Request to Reschedule Form	Schulman, Nathan	Received
8	Hearing Notice	Hearings Office	Received
9	10/8/12 letter	Schulman, Nathan	Received