



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF MATTHEW MASTRANTUONO

CASE NO. 1120174

DESCRIPTION OF VEHICLE: Mazda 3 (OR 115EDK)

DATE OF HEARING: October 2, 2012

APPEARANCES:

Mr. Matthew Mastrantuono, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Mastrantuono 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. Mastrantuono and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Mr. Mastrantuono submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on September 25, 2012. Mr. Mastrantuono indicates, in Exhibit 1, that he "was not given proper notification that parking was being temporarily suspended for city work." Mr. Mastrantuono writes that he parked his vehicle late on Sunday, September 23, 2012. Mr. Mastrantuono writes that he did not use his vehicle on September 24th, and when he returned to his vehicle on September 25th, it had been towed. At the hearing, Mr. Mastrantuono testified that in the past parking changes in his neighborhood have been posted at least 48 hours, and sometimes 72 hours, in advance. Mr. Mastrantuono testified that he went out to his vehicle around 1:00 p.m. on September 25th, and found that it had been towed.

The City submitted Exhibits 5 through, and including, 8 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report which indicates that Mr. Mastrantuono's vehicle ("the Vehicle") was towed on September 25, 2012 from NW Johnson. The report indicates that the Vehicle was parked in violation of a temporary parking restriction. The report indicates that the temporary no parking signs were put into place on September 24, 2012 at 11:19 a.m. The temporary no parking signs read: "No parking this space 8a-5p Tue-Fri 9/25/12-9/28/12". Exhibit 6 is a copy of the parking citation issued to Mr. Mastrantuono on September 25, 2012. Exhibit 7 contains 4 photos related to the tow of the Vehicle. The photos show the Vehicle parked with the right front tire adjacent

to a post. The post has a temporary no parking sign attached to it which contains the language listed above. Exhibit 8 appears to be a screen shot from a Parking Enforcement computer showing the verification time for the placement of the temporary no parking signs.

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 16.20.170 provides that "no person may store . . . a vehicle . . . on public right-of-way or other public property in excess of 24 hours without permission . . ." PCC 16.30.210D provides that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. 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 16.30.220B provides that an authorized officer may tow a vehicle, without notice, when the vehicle is illegally parked in a conspicuously posted restricted space.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on September 23, 2012 Mr. Mastrantuono parked his vehicle on NW Johnson. The Hearings Officer finds that on September 24, 2012 at 11:19 a.m. temporary no parking signs were placed, and verified, in the area where the Vehicle was parked. The Hearings Officer finds that the temporary no parking signs were enforceable by tow 24 hours after verification beginning at 11:20 a.m. on September 25, 2012. The Hearings Officer finds that the Vehicle remained parked on NW Johnson, in the area with a temporary parking restriction, after 11:20 a.m. on September 25, 2012. The Hearings Officer finds that the Vehicle was parked in violation of the temporary parking restriction. The Hearings Officer finds that the temporary no parking signage was conspicuously posted at the time of the tow. The Hearings Officer finds the tow of the 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: October 3, 2012
KMG:c1/c2

Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 14794

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Mastrantuono, Matthew	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	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Parking Enforcement Service Requests printout	Parking Enforcement	Received