



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF SHERRY W. WALLACE

CASE NO. 1120146

DESCRIPTION OF VEHICLE: Toyota 4Runner (OR WQQ796)

DATE OF HEARING: September 6, 2012

APPEARANCES:

Shelly Wallace, Authorized Representative on behalf of Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Shelly Wallace appeared at the hearing and testified on behalf of her mother, Ms. Sherry Wallace. 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. Wallace and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Ms. Sherry Wallace submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on August 7, 2012 from NW Hoyt between NW 23rd and 24th. Ms. Wallace writes that "The vehicle was parked before the sign was put up. The car has an "L" parking permit which allows it to be parked there until 12/31/12. My daughter, Shelly Wallace, was out of town and had no knowledge of the sign going up." Ms. Shelly Wallace appeared at the hearing and stated that she was out of town from Friday to Wednesday and that she was not aware of the temporary no parking zone. Ms. Wallace stated that she has a Zone L parking permit which permits her to park in the location where she left her vehicle.

The City submitted Exhibits 7 through, and including, 9 for the Hearings Officer's consideration. Exhibit 7 is a Tow Hearing Report indicating that Ms. Wallace's vehicle was towed on August 7, 2012 at 7:46 a.m. for the violation of temporary no parking. The narrative portion of the report reads:

"I was called out on Service Request #245 for Temporary No Parking to cite and tow the above vehicle. Signs were clearly visible see pictures and were verified on 8/3/12 at 3:41 p.m. Signs say No Parking 7am-4:30pm Tuesday 8/7/12 for 120 feet...Rear of vehicle in signs area approx. 3-4 feet."

Exhibit 8 is a copy of the citation issued to Ms. Wallace when the vehicle was towed. Exhibit 9 contains 4 photos related of Ms. Wallace's vehicle and the temporary no parking sign. The photos shows Ms. Wallace's vehicle parked next to the temporary no parking sign. The temporary no parking sign is next to the rear passenger side of Ms. Wallace's vehicle and is conspicuously posted. The wording on the sign is clearly visible in the photos and reads as indicated in the narrative report.

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:

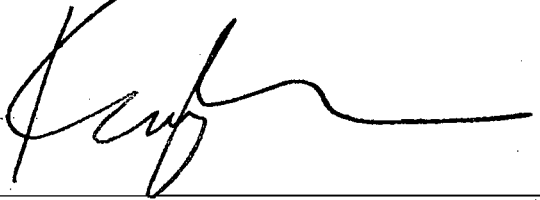
The Hearings Officer finds that on August 3, 2012 Ms. Wallace left her vehicle parked NW Hoyt; a public right-of-way. The Hearings Officer finds that on August 3, 2012 at 3:41 p.m. temporary no parking signs were placed and verified on NW Hoyt indicating that the area would become a temporary no parking zone on August 7, 2012 at 7:00 a.m. The Hearings Officer finds that on August 7, 2012 at 7:00 a.m., greater than 24 hours after the placement of the sign, the sign went into effect. The Hearings Officer finds that Ms. Wallace's vehicle remained parked on NW Hoyt after the sign was in effect and was in violation of the temporary no parking restriction. The Hearings Officer finds that on August 7, 2012 the temporary no parking sign was conspicuously posted next to Ms. Wallace's vehicle and the tow of Ms. Wallace's 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: September 7, 2012
KMG:c1/m2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 12202

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Wallace, Sherry W.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Request to Reschedule Form	Wallace, Shelly	
		(Authorized Rep.)	Received
6	Hearing Notice	Hearings Office	Received
7	Tow Hearing Report	Parking Enforcement	Received
8	Parking Violation	Parking Enforcement	Received
9	Photos	Parking Enforcement	Received