



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF JOSEPH EDWARD OKIES

CASE NO. 1120152

DESCRIPTION OF VEHICLE: Toyota Highlander (OR 114CLB)

DATE OF HEARING: September 18, 2012

APPEARANCES:

Joseph Okies, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Okies 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. Okies and the documents admitted into evidence (Exhibits 1 through and including 16).

Summary of Evidence:

Mr. Okies submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on August 24, 2012. Mr. Okies included with the form a type-written note indicating that he believes that the tow of his vehicle is invalid because the signage in the area was obstructed. Mr. Okies submitted 4 photos to show how the signage appeared in the area where he parked. Mr. Okies submitted an additional type-written note and additional photos at the hearing. Mr. Okies testified that he approached SE Division from SE 26th. Mr. Okies testified that the no parking sign on the corner of SE Division and SE 26th is turned away from SE 26th, and is obscured by a pipe. Mr. Okies testified that he pulled into the second parking space on Division and that the no parking sign in front of his car was obscured by tree branches. Mr. Okies testified that he is not familiar with the area and that the angle of the intersection required him to keep his attention on the roadway, and to not be looking around for signage.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report indicating that Mr. Okies' vehicle was towed at approximately 4:14 p.m. on August 24, 2012 from SE Division between SE 26th and SE 27th. The report indicates that the vehicle was found parked in a prohibited time zone during a "routine patrol". The report indicates that the signage in the area prohibits parking between 4-6 p.m. Monday through Friday. Exhibit 6 is a copy of the citation issued to Mr. Okies for the violation of "prohibited time." Exhibit 7 contains 3 photos related to the tow of Mr. Okies' vehicle. The upper left photo

shows Mr. Okies' vehicle parked approximately 2 parking spaces past a no parking sign. The other photos show a closer view of Mr. Okies' license plate and of the no parking sign.

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. 16.30.210A1 provides that a vehicle may be towed and held at the expense of the owner from any public right-of-way when the vehicle is parked in violation of a permanent parking restriction. PCC 16.30.220B permits any authorized officer to tow a vehicle without prior notice when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

Findings of Fact and Conclusions of Law:


The Hearings Officer finds that the south side of SE Division between SE 26th and SE 27th is subject to a permanent parking restriction which prohibits parking between 4-6 p.m. Monday through Friday. The Hearings Officer finds that on August 24, 2012 Mr. Okies' vehicle was parked on the south side of SE Division between SE 26th and SE 27th after 4 p.m. The Hearings Officer finds that Mr. Okies' vehicle was parked in violation of the permanent parking restriction. The Hearings Officer finds that Mr. Okies' vehicle, as parked, impeded the normal flow of vehicular traffic. The Hearings Officer finds the tow of Mr. Okies' vehicle to be 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 20, 2012
KMG:c1/m2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 13131

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Okies, Joseph Edward	Received
1a	Letter	Okies, Joseph Edward	Received
1b	Photos	Okies, Joseph Edward	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	Request to Reschedule Form (via fax)	Okies, Joseph Edward	Received
9	Request to Reschedule Form (via mail)	Okies, Joseph Edward	Received
10	Hearing Notice	Hearings Office	Received
11	Letter	Okies, Joseph Edward	Received
12	Photo	Okies, Joseph Edward	Received
13	Photo	Okies, Joseph Edward	Received
14	Photo	Okies, Joseph Edward	Received
15	Photo	Okies, Joseph Edward	Received
16	Photo	Okies, Joseph Edward	Received