



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

APPEAL OF Isham Martin

CASE NO. 1120188

DESCRIPTION OF VEHICLE: Ford F150 (OR VFK429)

DATE OF HEARING: October 23, 2012

APPEARANCES:

Mr. Isham Martin, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Martin 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. Martin and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Mr. Martin submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on October 4, 2012. Mr. Martin indicates that he believes the tow of his vehicle is invalid because "Vehicle was reported stolen on August 24, 2012. Was 'recovered' on the day of the tow." Exhibit 2 was also submitted by Mr. Martin and is a letter from the Portland Police Bureau indicating that Mr. Martin's vehicle was reported stolen on August 25, 2012. Mr. Martin testified that his vehicle was stolen in August when it had valid registration tags. Mr. Martin testified that the tags expired at the end of August, when the vehicle was out of his control. Mr. Martin testified that he had no knowledge of the tow warning notice.

The City submitted Exhibits 7 through, and including, 9 for the Hearings Officer's consideration. Exhibit 7 is a Tow Hearing Report submitted by the Office of Transportation Abandoned Auto Section. The report indicates that Mr. Martin's vehicle was towed on October 4, 2012 from 5500 NE 14th. The report indicates that the vehicle was located on September 26, 2012 at 8:20 a.m. and that a tow warning sticker was placed on the vehicle because it did not have current registration plates. The report indicates that on October 4, 2012 the vehicle was found in the same location with the tow warning sticker still on the window. The vehicle was cited and a tow was ordered for the vehicle. Exhibit 8 is a copy of the citation on October 4, 2012 for the violation of Portland City Code 16.20.120P. Exhibit 9 contains 3 photos related to the tow of Mr. Martin's vehicle. The photos show the license

plate of the vehicle, and that the registration tags expired in August 2012. The photos also show the tow warning notice attached to the driver's side window of the vehicle.

Applicable Law:

The Hearings Officer must find a tow is valid if the Hearings Officer finds that 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 16.90.005 defines, for the purposes of towing a vehicle in Portland, the term "abandoned." A vehicle is deemed to be abandoned if the vehicle remains in violation for more than 24 hours and if the vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration or the vehicle appears inoperative or disabled. An "abandoned" vehicle may be towed and stored at the owner's expense if the vehicle is parked in the public right-of-way. (PCC 16.30.210 A.10) A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle (PCC 16.30.225 B.).

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that in August 2012 Mr. Martin's vehicle was stolen. The Hearings Officer finds that the vehicle remained out of Mr. Martin's control until after it was towed by the city. The Hearings Officer finds that the registration for Mr. Martin's vehicle expired at the end of August 2012. The Hearings Officer finds that on September 26, 2012 Mr. Martin's vehicle was located on a public right-of-way with expired registration tags. The Hearings Officer finds that a Tow Warning Notice was properly affixed to Mr. Martin's vehicle on September 26, 2012. The Hearings Officer finds that, greater than 72 hours after the tow warning notice was affixed to the vehicle, Mr. Martin's vehicle remained on the public right-of-way with expired registration tags. The Hearings Officer finds that Mr. Martin's vehicle was an abandoned automobile under the PCC and the tow of Mr. Martin'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: October 24, 2012
KMG:c2/m2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 15325

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Martin, Isham	Received
2	Notice of Towed Vehicle	Martin, Isham	Received
3	Retriever Towing	Martin, Isham	Received
4	Tow Desk printout	Hearings Office	Received
5	Notice of Hearing	Hearings Office	Received
6	Statement of Rights and Procedures	Hearings Office	Received
7	Tow Hearing Report	Abandoned Autos	Received
8	Parking Violation #HA09616519	Abandoned Autos	Received
9	Photos	Abandoned Autos	Received