



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 SHELLY GUERIN

CASE NO. 1120242

DESCRIPTION OF VEHICLE: Honda Civic (LA WDC302)

DATE OF HEARING: December 21, 2012

APPEARANCES:

Ms. Shelly Guerin, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Shelly Guerin appeared at the hearing and testified on her 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 Ms. Guerin and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Guerin submitted a Tow Hearing Request Form, Exhibit 1, and a hand written statement, Exhibit 2, regarding the tow of her vehicle on December 7, 2012. In Exhibit 2, Ms. Guerin writes that she arrived in Portland on December 3, 2012 and parked her car in the NW neighborhood because parking in the neighborhood is free. Ms. Guerin writes that she parked her car on the morning of the 5th, and discovered that it was missing on the 7th. Ms. Guerin writes that she "never saw any signs the morning of the 5th or the afternoon of the 7th". Ms. Guerin appeared at the hearing and stated that she is unfamiliar with the parking rules in Portland and with the street cleaning schedule. Ms. Guerin reiterated that she arrived in the city on the 3rd of December, and parked in NW because of the lack of obvious parking restrictions. Ms. Guerin testified that she took items from her vehicle on December 5, 2012 and that she did not see any temporary no parking signs at that time. Ms. Guerin stated that she has lived in other cities where the streets are regularly cleaned, and the process is different in other cities. Ms. Guerin expressed concern about how visitors to the city are expected to learn about the city parking rules.

The City submitted Exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a Tow Hearing Report indicating that Ms. Guerin's vehicle was towed on December 7, 2012 at approximately 9:00 a.m. from NW Marshall. The narrative portion of the report reads "As the pictures show, the vehicle was parked, cited and towed per Sweep Tow Policy." The report indicates that temporary no parking signs were verified by

parking enforcement as properly placed on December 5, 2012 at 2:38 p.m. Exhibit 7 is a copy of the parking citation issued when the vehicle was towed. The citation further indicates that the temporary posted signs read, "No Parking 7:30 a.m. -10 a.m. Friday." Exhibit 8 contains 3 photos related to the tow of Ms. Guerin's vehicle. The photos show a temporary no parking sign on the curb next to the vehicle front bumper of the vehicle.

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:

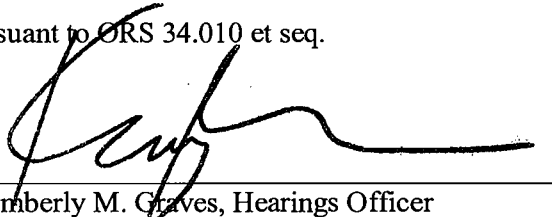
The Hearings Officer finds that on December 5, 2012 at 2:38 p.m. temporary no parking signs were placed on NW Marshall indicating a temporary parking restriction for December 7, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on December 7, 2012, during the enforcement time listed on the signs, Ms. Guerin's vehicle was parked in the restricted zone. The Hearings Officer finds that on December 7, 2012 a temporary no parking sign was conspicuously posted next to Ms. Guerin's vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Ms. Guerin's vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Ms. Guerin'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: December 21, 2012
KMG:c2/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19580

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Guerin, Shelly	Received
2	Written statement	Guerin, Shelly	Received
3	Tow Desk printout	Hearings Office	Received
4	Notice of Hearing	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received