

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF COURTNEY AND MARIO GOMEZ

CASE NO. 1120235

DESCRIPTION OF VEHICLE: Hyundai Elantra (OR 727EWZ)

DATE OF HEARING: December 20, 2012

APPEARANCES:

Ms. Courtney Gomez, Appellant

Officer Barkley, for the City

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Courtney Gomez ("Gomez") appeared at the hearing and testified on her own behalf. Officer Debbie Barkley ("Barkley") 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 Gomez and Barkley and the documents admitted into evidence (Exhibits 1 through and including 12).

Summary of Evidence:

Gomez submitted a Tow Hearing Request Form, Exhibit 1, and a type-written letter, Exhibit 2, regarding the tow of her vehicle on November 30, 2012 at approximately 9:00 a.m. Gomez also submitted Exhibits 3 through, and including, 6 with additional information related to the tow of her vehicle. In Exhibit 2, Gomez lists the reasons she believes the tow of her vehicle is invalid. Gomez indicates that she "never saw the sign indication (sic) the 'temporary no parking 7:30 am-10:00am' (as indicated on the parking ticket) as it was low to the ground and blocked from my view by a car I parallel parked in front of." Gomez also indicates that she did not walk in the direction of the sign to get to her destination, and when she parked the street was "lined with parked cars." Gomez writes in Exhibit 2 in detail about her experience with the company which towed her vehicle. At the hearing, the Hearings Officer directed Gomez to the correct office in the city to deal with her concerns about the towing company's conduct. At the hearing, Gomez testified that the temporary no parking barricades were not visible due to their height. Gomez testified that the only signage that she saw for the area was a Zone L sign. Gomez testified that she parked in "good faith".

The City submitted Exhibits 10 through, and including, 12 for the Hearings Officer's consideration. Exhibit 10 is a Tow Hearing Report indicating that Gomez's vehicle was towed on November 30, 2012 at approximately 9:00 a.m. from NW Everett between NW 21st and NW 22nd. The narrative portion of the report reads "Barricades were up & verified 24 hrs +. . . Signs were on all streets between 21st Ave to 25th Ave & Burnside to Marshall. See pictures." The report indicates that temporary no parking signs were verified by parking enforcement as properly placed on November 28, 2012 at 2:43 p.m. Exhibit 11 is a copy of the parking citation issued when the vehicle was towed. Exhibit 12 contains 2 photos related to the tow of Gomez's vehicle. The photos show a temporary no parking sign approximately 1 vehicle length behind Gomez's vehicle. Barkley appeared on behalf of Parking Enforcement and testified that Gomez's vehicle was towed on November 30, 2012 for violating a temporary no parking restriction. Barkley testified that the signs were verified on November 28, 2012 at 2:43 p.m. Barkley testified that the photos in Exhibit 12 show the location of the temporary no parking sign in relation to Gomez's 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:

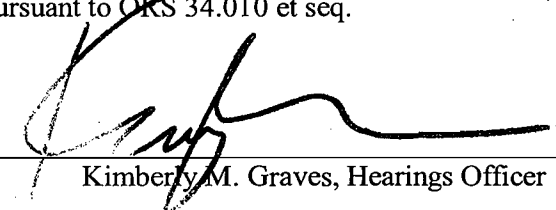
The Hearings Officer finds that on November 28, 2012 at 2:43 p.m. temporary no parking signs were placed on NW Everett indicating a temporary parking restriction for November 30, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on November 30, 2012, during the enforcement time listed on the signs, Gomez's vehicle was parked in the area which was subject to the temporary parking restriction. The Hearings Officer finds that on November 30, 2012 a temporary no parking sign was conspicuously posted next to Gomez's vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Gomez's vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Gomez'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:c1/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 18917

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Gomez, Courtney and Mario	Received
2	Letter	Gomez, Courtney and Mario	Received
3	12/3/12 Notice of Towed Vehicle	Gomez, Courtney and Mario	Received
4	Parking Violation	Gomez, Courtney and Mario	Received
5	Contract Tow Invoice	Gomez, Courtney and Mario	Received
6	Photo	Gomez, Courtney and Mario	Received
7	Tow Desk printout	Hearings Office	Received
8	Hearing Notice	Hearings Office	Received
9	Notice of Rights and Procedures	Hearings Office	Received
10	Tow Hearing Report	Parking Enforcement	Received
11	Parking Violation	Parking Enforcement	Received
12	Photos	Parking Enforcement	Received