



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Timothy S. Freeburn

CASE NO. 1120249

DESCRIPTION OF VEHICLE: Jeep Cherokee (OR SRW906)

DATE OF HEARING: December 27, 2012

APPEARANCES:

Mr. Timothy Scott Freeburn

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Freeburn appeared at the hearing 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 documents admitted into evidence (Exhibits 1 through and including 4).

Summary of Evidence:

Mr. Freeburn submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on December 3, 2012 from the 1600 block of SE Washington. Mr. Freeburn writes in Exhibit 1 that his vehicle is "fully operational and was in no way abandoned." Mr. Freeburn then writes that he parked his vehicle at his sister's apartment with the intent on getting it operational as soon as possible. Mr. Freeburn writes that the vehicle would not pass a DEQ inspection and as a result did not have current registration. Mr. Freeburn writes that the vehicle was "ticketed" for "failure to display current registration" but adds that he was unaware that it was unlawful to park a vehicle without current registration on the roadway.

The City did not submit any documents/information for the Hearings Officer's consideration

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:

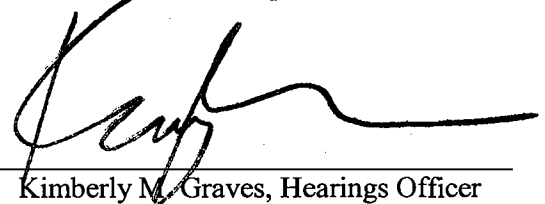
The Hearings Officer finds that the burden is on the City to provide sufficient information to prove that the tow of Mr. Freeburn's vehicle was valid. The City has failed to submit any information about basis for the tow of Mr. Freeburn's vehicle. The Hearings Officer finds that the City is unable to meet its burden to prove the validity of the tow of Mr. Freeburn's vehicle. The Hearings Officer finds the tow of Mr. Freeburn's vehicle is invalid.

Order:

Therefore, the Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: December 28, 2012
KMG: c2/m2


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 19205

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Freeburn, Timothy S.	Received
2	Tow Desk Printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Retriever Towing Receipt	Freeburn, Timothy S.	