



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Brittany Korfel

CASE NO. 1120257

DESCRIPTION OF VEHICLE: Chevrolet Metro (OR XCC 453)

DATE OF HEARING: December 27, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Korfel did not appear at the hearing. A Notice of Hearing was mailed to Ms. Korfel on December 17, 2012 to the address she provided when she requested her appeal hearing. The Notice was not returned by the U.S Mail Service and Ms. Korfel did not contact the Hearing Office prior to the hearing to ask that the hearing be rescheduled. 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 7).

Summary of Evidence:

Ms. Korfel submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on December 7, 2012 from NW 16th Ave between NW Couch and NW Davis. Ms. Korfel writes in Exhibit 1, "My car was towed due to street cleaning and I was out of the state for work when temporary closure notice was posted."

The City submitted Exhibits 5 through, and including, 7 regarding the tow of Ms. Korfel's vehicle on December 7, 2012. Exhibit 5 is a Tow Hearing Report which lists the date of citation as December 10, 2012. The Hearings Officer notes that this date is not consistent with the citation date in Exhibit 6 of December 7, 2012. The Hearings Officer finds that the date of December 10, 2012 listed in Exhibit 5 is an error, and that the true date of towing is December 7, 2012. Exhibit 5 indicates that Ms. Korfel's vehicle was towed at approximately 8:15 a.m. for violating a temporary no parking restriction. The narrative portion of the report reads, "Title 16 16.20.170 covers illegally storing vehicle on street. Barricades were verified on December 5, thus meeting the 24 HR notice requirement." Exhibit 6 is a copy of the citation issued to Ms. Korfel when her vehicle was towed the citation was issued on December 7, 201 at 8:15 a.m. and lists the basis for the citation as a violation of a temporary no parking restriction. The citation indicates that the temporary no parking signs read "No parking 7:30 a.m. -10:00

a.m. Friday." The comments portion of the citation details indicates that the barricades were verified on December 5, 2012 at 2:38 p.m. Exhibit 7 contains 3 photos related to the tow of Ms. Korfel's vehicle. The upper photos show the license plate of the vehicle and the wording on the temporary signage. The lower photo shows that a temporary no parking sign was located next to the front bumper of Ms. Korfel's vehicle at the time of the tow.

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:

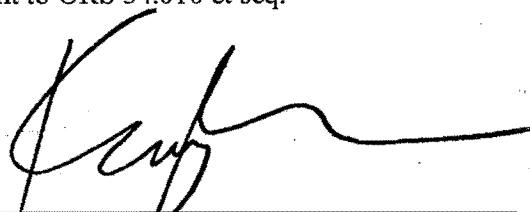
The Hearings Officer finds that on December 5, 2012 at 2:38 p.m. temporary no parking signs were placed on NW 16th Ave indicating a temporary parking restriction for December 7, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on December 7, 2012, during the enforcement time listed on the signs, Ms. Korfel's vehicle was parked in the area which was subject to the temporary parking restriction. The Hearings Officer finds that on December 7, 2012 a temporary no parking sign was conspicuously posted next to Ms. Korfel's vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Ms. Korfel's vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Ms. Korfel's vehicle is valid.

Order:

Therefore, it is ordered that all towing and storage charges against the vehicle, and an administrative fee, if applicable, shall remain the responsibility of the appellant.

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

Dated: December 27, 2012
KMG:c2/m2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19535

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Korfel, Brittany	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	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received