

REASONS FOR DECISION OF THE ADMINISTRATIVE PENALTY TRIBUNAL

Form 10

Date of Hearing: Tuesday, April 20, 2021

Hearing Officer: Helen Walsh

Re: PB549190

City's Representative: None in Attendance

Owner's Representative: Jagveer Dhaliwal

INTRODUCTION

On October 21, 2019, at 11:47 p.m., at a location near 94 Lansdowne Avenue, Parking Violation Notice (PVN) PB549190 was issued to plate number 286DLB citing that the vehicle was standing within a signed transit stop zone, contrary to the Toronto Municipal Code, Chapter 950-400F(1). 1303218 Ontario Limited is the Recipient/Plate Owner (Owner). Jagveer Dhaliwal appeared as the agent for the Owner (Agent). The penalty levied at first instance was in the amount of \$150.00.

EXTENUATING CIRCUMSTANCES - a special or specified circumstance, including such types of extenuating circumstances established by the City Solicitor that partially or fully exempts a person from performance of a legal obligation so as to avoid an unreasonable or disproportionate burden or obstacle.

FINANCIAL HARDSHIP - a significant difficulty or expense and focuses on the resources and circumstances of the person owing an administrative penalty, including administrative fees, in relationship to the cost or difficulty of paying the administrative penalty or any administrative fees.

SCREENING OFFICER'S DECISION

The Screening Officer, in their written decision dated June 5, 2020, varied the original penalty by reducing it by 50%, to \$75.00. The reason cited was "a onetime reduction taking into consideration the plate history and the explanation in the online application. No evidence to contradict the information in the parking violation notice".

CITY REPRESENTATIVE'S EVIDENCE

No City Representative appeared in the case. Pursuant to the Toronto Municipal Code, Chapter 610, sections 1.2 and 2.3, the PVN is a certified statement of the parking enforcement officer, thereby being evidence of the facts stated therein, in the absence of evidence to the contrary. As such, the PVN evidenced a contravention of the Owner's vehicle of the Toronto Municipal Code, Chapter 950-400F(1).

RECIPIENT'S EVIDENCE

On April 8, 2021, the Agent submitted a series of photographs taken of the location where the offence occurred. The Agent also gave oral evidence.

CITY REPRESENTATIVE'S SUBMISSIONS

There was no City Representative in attendance at the hearing and no written submissions were provided.

RECIPIENT'S SUBMISSIONS

The Agent gave oral evidence at the hearing that he was the driver of the Owner's vehicle at the relevant time. The Agent's submissions were essentially directed to two points.

Firstly, he asserted that the Owner's vehicle was standing outside the signed transit zone. Referencing the photographs of the location he submitted in evidence, he argued that, although the Owner's vehicle was admittedly standing in front of a "NO STANDING" sign, the vehicle was not within a signed transit stop zone because the transit stop was behind his vehicle, according to him by some 100 meters.

Secondly, the Agent submitted that he was standing the Owner's vehicle for the purpose of and while actively engaged in dropping off a passenger. He argued that, although the passenger was admittedly sitting in the passenger seat of the vehicle when the parking enforcement officer's vehicle drove up behind the Owner's vehicle, the passenger was only gathering his belongings to exit the vehicle. He further asserted that, although the passenger admittedly continued to sit in the passenger seat of the Owner's vehicle while the officer approached on foot and appeared to look in the passenger side window, this was at the Agent's direction in case the parking enforcement officer needed them. He further asserted that, once the parking enforcement officer returned to his own vehicle, the passenger exited the Owner's vehicle and the Agent drove away.

REASONS FOR DECISION

The Tribunal's jurisdiction is governed by Chapter 610 of the Toronto Municipal Code, Chapter 610. Pursuant to sections 1.2 and 2.3, the PVN constitutes a certified statement of the parking enforcement officer, thereby being evidence of the facts as stated therein, in the absence of evidence to the contrary. The presumption that a violation occurred can be displaced, but only where the Owner, in this case through the evidence of the Agent, is able to convince the Hearing Officer that on a balance of probabilities the offence did not occur.

The Hearing Officer considered the applicable legislation, the documentary evidence of the parking enforcement officer, the decision of the Screening Officer and the evidence of the Agent and determined that the Agent's evidence failed to meet the burden of persuasion. Specifically the Agent did not persuade me on a balance of probabilities that the Owner's vehicle was standing outside the transit stop zone. In addition, while it may be permissible to halt a vehicle temporarily for the purpose of and while actually engaged in unloading a passenger, the evidence fell short of meeting the burden of persuasion that this exemption applied in this case.

After considering the applicable legislation and all the evidence and taking into account the Agent's submissions and the vehicle plate history, the Hearing Officer exercised her discretion and varied the penalty, reducing it further, to \$50.00, and providing 90 days to pay the penalty.

DECISION

In the result, the Hearing Officer varied the penalty to \$50.00 and provided 90 days within which to pay.



Helen Walsh
Hearing Officer

Date Signed: 12/07/2021