

REASONS FOR DECISION OF THE
ADMINISTRATIVE PENALTY TRIBUNAL

Form 10

Date of Hearing: Thursday, September 30, 2021

Hearing Officer: Mumtaz Jiwan

Re: PVN 80929525

City's Representative: None

Owner: Margaret Diane Eaton-Kent

Owner's Representative: Mathew Eaton-Kent

INTRODUCTION

On February 17, 2020, at 9:54, at a location at 3199 Lakeshore Blvd. West in the City of Toronto, Parking Violation Notice (PVN) 80929525 was issued to plate number BKSP964 citing that the vehicle was parked on private property, contrary to Toronto Municipal Code, Chapter 915-2B.

The penalty levied in the first instance was in the amount of \$30.00 to which was a late payment fee of \$12.00 was added, for a total of \$42.00.

The Owner's Representative (the Representative) appeared at the hearing.

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 decision dated September 2, 2020, varied the original penalty by removing the late payment fee of \$12 and leaving the original penalty at \$30.00 due on March 1, 2021.

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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 by the Owner's vehicle of the Toronto Municipal Code, Chapter 915-2B, being parked on private property.

RECIPIENT'S EVIDENCE

The Representative filed a copy of a P/T Humber College Staff parking pass expiring April 30, 2020. The Representative 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 Representative gave oral evidence at the hearing. The Representative was the driver of the vehicle at the relevant time.

The Representative stated that the address where he received the PVN is that of Humber College. He was teaching a course at Humber College on the morning of the offence. The Representative has a parking pass for the whole semester, a copy of which was filed with the Tribunal. He said that the parking pass was displayed on/off the rear view mirror and would have been visible to any person checking the vehicle.

The Representative explained that on that morning, a significant amount of snow had fallen. He stated that the snow covered the lines delineating the spaces for permitted parking. The Representative stated that he parked the vehicle next to another car. He then went on to say that when he returned to the vehicle, the snow had melted and he discovered that he was parked not in a permitted parking space but in the driveway. The Representative acknowledged that the vehicle was not parked in a permissible parking space. However, he vigorously stated his opinion that the PVN should not have been issued.

In response to the Hearing Officer's question whether as a member of the Humber College staff, he would have knowledge and experience of the spaces where he could park legally, the Representative stated that the parking spaces were laid out vertically and horizontally and the lines were not visible to him on that day. He admitted that the parking violation did occur but continued to protest

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that he should not have received the penalty. When asked whether he needed more time to pay the penalty, the Representative said he did not.

The Representative's submissions were essentially directed to questioning the Hearing Officer's authority as a Hearing Officer to make a decision, asking whether the Hearing Officer was a lawyer. He insisted that the burden is on the State to prove that an offence has occurred. The Representative demanded "a real hearing", in a court before a Justice of the Peace.

The Representative continued to interrupt the Hearing Officer even as the decision was rendered. The Representative stated loudly that he did not accept the Hearing Officer's decision as final and binding and that there was no further appeal.

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 is able to convince the Hearing Officer that on a balance of probabilities the offense did not occur. The governing legislation also stipulates that the Decision of a Hearing Officer is final.

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 Representative. The Hearing Officer determined that the Representative's evidence failed to meet the burden of persuasion.

Specifically, the Representative did not provide clear and convincing evidence that the PVN should not have been issued to him. But the Representative did acknowledge and admit that the vehicle was parked in a space not permissible for parking, in contravention of Toronto Municipal Code Chapter 915-2B.

After considering the applicable legislation, the Screening Officer's Decision, all of the evidence and the Representative's submissions, I decided to Affirm the Screening Officer's Decision.

DECISION

In the result, the Hearing Officer Affirmed the Screening Officer's Decision

Decision of the Tribunal: Re: 80929525

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Mumtaz Jiwan

Hearing Officer

Date Signed: November 4, 2021