

REASONS FOR DECISION OF THE ADMINISTRATIVE PENALTY TRIBUNAL

Form 10

Date of Hearing: Monday, December 21, 2020

Hearing Officer: N. Bronfman

Re: PD595215

City's Representative:

Owner's Representative: Rafael Sakarya

INTRODUCTION

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

As per the bylaw, no person shall in a park, park a vehicle in a designated area for parking, except in a parking space and in accordance with posted conditions. Satisfied you were in violation of the bylaw. Penalty varied as a onetime consideration. Fine reduced from \$100 to \$50

CITY REPRESENTATIVE'S EVIDENCE

Parking tag: Park vehicle in park (Not in designated space/contrary to posted conditions). Comments: Truck and trailer parking only.

5 photographs. 4 photos showing the vehicle in contravention to the posted signage. 1 photo of the clearly posted sign. All 5 photos were uploaded on 6/5/21 to the file.

RECIPIENT'S EVIDENCE

8 Googlemap screen grabs showing various areas of the Humber Bay Park parking lots dated May 2019.

CITY REPRESENTATIVE'S SUBMISSIONS

RECIPIENT'S SUBMISSIONS

Mr Sakarya stated that he is familiar with the parking lot as he and his father are boaters and have often used the boat launch facilities themselves. He was never aware that there were areas designated for boat and trailer parking only as “there is no posted signage in the lot”. However, he is aware that there were extended parking lines for trailers. He has often seen cars parked in the area.

M Sakarya asserted that the photograph the EPS officer took of the sign was not taken at the time of the infraction but fraudulently added at a later date, because the shadows around the sign are different from the shadows around the car, and also because the photograph was not there when he initially reviewed the evidence.

“The photo of the sign was fraudulently added on my case.”

“ If I had seen the picture I would have addressed it online where I gave my dispute, my reasoning. I did not because I did not see that picture there.”

“It is not there. No massive sign”

“The photo of the sign was not taken at 7pm.”

He stated that the photos of the car were taken in the evening, and the sign in broad daylight.

Mr Sakarya additionally stated that because there is no photo of the sign and car together in one photo, there is no evidence against him.

He asserted that none of Googlemaps screen grabs he has submitted as evidence show the “massive” sign.

DECISION

Upon reviewing the evidence of the enforcement officer, the screening officer’s decision and the photographic and oral evidence of the appellant, I have made the decision to affirm this Penalty. The PVN was issued correctly and is valid.

Date Issued: January 10, 2022

The vehicle was parked in the area of Humber Bay Park which is designated for Boat and Trailer parking only. The EPS officer uploaded a photo of a sign which reads : “Toronto Municipal Property. Municipal Code Chapter 608. Boat and Trailer Parking only. Unauthorized vehicles will be tagged and/or towed away at owner’s expense.”

The tribunal found it offensive that Mr Sakarya would assert that the City of Toronto would ‘fraudulently’ add the photograph of the sign after the screening decision and prior to the tribunal hearing in order to bolster its case. It is very clear that all 5 photographs were uploaded at the same time 05:30:04 to the tribunal website, on the same date of June 5, 2021 which was the day after the PVN was issued.

The 5 photographs used in evidence were taken around 18:59 which was when the PVN was issued by the Enforcement Officer.

All 5 photographs were taken during daylight hours. As this was around 7pm in early June, the sun was very bright and was casting shadow around the cars. The sign photo was taken in the shade, cast presumably by the large trees visible in the photo, but shows bright blue sky, and clouds in the distance. There is also a patch of sunshine showing behind the sign.

There is no need to have the sign and car in one photo. The photo of the sign posted in the park is enough evidence for the tribunal.

The Googlemap screen grabs were not taken the day of the PVN. Most of them were from May 2019. The violation occurred one year later in June 2020, so signage may have been added or removed in the intervening time. This is not credible evidence.

Based on these reasons the Penalty is Affirmed.

____N. Bronfman_____

Hearing Officer

Date Signed: 10/01/2022

Attachments: