

REASONS FOR DECISION OF THE ADMINISTRATIVE PENALTY TRIBUNAL

Form 10

Date of Hearing: Monday, April 11, 2022

Hearing Officer: Jenny Gumbs

Re: PF426700

City's Representative: None in Attendance

Owner's Representative: Aliya Karmali-Esmail

INTRODUCTION

On October 28, 2021, at 15:01, at a location near 11 Lobb Avenue, Parking Violation Notice (PVN) PF426700 was issued to licence plate number CKKA480 citing that the vehicle was parked during a prohibited time in contravention of the Toronto Municipal Code, Chapter 950-405A. Shabir Karmali-Esmail/Tahera, S Esmail, are the registered owners of the vehicle. Aliya Karmali-Esmail appeared as Agent for the owner. The penalty levied at first instance was in the amount of \$50.00.

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 a decision dated January, 28, 2022 affirmed the original administrative penalty noting that any part of a vehicle parked in a prohibited zone – a violation occurred and that part of the no parking sign can be seen in the Recipient's photo.

CITY REPRESENTATIVE'S EVIDENCE

No City Representative appeared at the hearing. 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 and is 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 950-405A.

RECIPIENT'S EVIDENCE

Agent submitted a photo of the sign in question.

CITY REPRESENTATIVE'S SUBMISSIONS

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

RECIPIENT'S SUBMISSIONS

According to Agent, the car was parked at the location, just a bit off on the side. She submitted she works in the area and needs to park close because of accessibility concerns because she has a disability. There are other vehicles parked there in the past and police officer walked past and did not give ticket.

REASONS FOR DECISION

The Tribunal's jurisdiction is governed by Chapter 620 of the Toronto Municipal Code 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 or Agent is able to convince the Hearing Officer that on a balance of probabilities, the offence 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 supporting documentary and photographic evidence of the parking enforcement officer, the decision of the Screening Officer, and the submissions and evidence of the Agent. The Agent does not dispute that the vehicle was

parked in the location indicated on the PVN. She disputes that doing so was in violation of the parking restrictions in effect at the time.

The photograph of the sign provided by the Agent conforms with the photograph provided by the enforcement officer. No evidence in the form of an accessibility permit or on-street parking permit was provided. Hearing Officer determined that the Agent's evidence failed to meet the burden of persuasion. She did not persuade me on a balance of probabilities that the vehicle was parked outside of the restricted area and no permit was presented for consideration. However, I accept the submission of hardship.

After considering the applicable legislation, all evidence and taking into account the Agent's submissions, the Hearing Officer made a determination to vary the penalty due to hardship and reduce it to \$30.00, providing 45 days to pay the penalty.

DECISION

Accordingly, the Administrative Penalty of \$50.00 was reduced to \$30.00 and 45 days provided to make the payment.



Jenny Gumbs
Hearing Officer

Date Signed: November 15, 2022