Tow Hearing

Occupations Code
Subchapter J
2308.451

Alleged overcharge or non-consent tow or booting occurs

Towing/booting company provides notice of rights to owner/operator OC 2308.454(a)-(d)

Owner/operator must request hearing within **14 business days** (doesn't begin until tow/booting co. gives necessary info for owner/operator to request hearing) OC 2308.456

Towing/booting company fails to provide notice of rights to owner/operator OC 2308.454(e)

Owner/operator may request a hearing at any time OC 2308.456(c)

Owner/operator files hearing request OC 2308.458

Court charges the standard civil filing fee. Local Gov't Code 133.151(a-1). 135.103

Hearing shall be set & held within **21 calendar days** OC 2308.458(a)

Court notifies the following parties, in a manner consistent with TRCP 21a: (1) Person who requested the hearing; (2) parking facility owner or law enforcement agency that authorized the tow/booting; (3) towing/booting company; and (4) vehicle storage facility which held towed vehicle (if towed). Notification must include copy of hearing request. OC 2308.458(b)(b-2)

Hearing – court may consider the following issues:

1. Whether there was probable cause for the tow/booting
   a. Was this an incident management tow?
   b. Proper procedures for a private property tow?
2. Whether a charge imposed or collected in connection with the tow/booting was greater than the amount authorized by a political subdivision or Tx Dept of Licensing & Regulation OC 2308.458(b-1)(c)(c-1)

Burden of proof is on the person who requested the hearing & hearsay *is* admissible if it's considered reliable by the JP OC 2308.458(b-1)(c)

Court shall make written findings of fact and a conclusion of law OC 2308.458(d)

Court produces a written judgment, which may include:

1. If **no** probable cause for tow/booting: company to pay/reimburse cost of removal/storage or booting/parking
2. If probable cause for tow/booting: owner/operator to pay costs (may not exceed authorized amount)
3. If overcharge: company to reimburse amount of overcharge
4. To prevailing party: court costs, attorney's fees, and reasonable cost of required photos submitted at hearing

OC 2308.451, .458(e)

Judgment in a tow hearing may be enforced by any means available for enforcement of judgment for a debt. OC 2308.460

Appeal is governed by TRCP, except **no appeal bond** may be required by the court OC 2308.459