



Ohio Revised Code

Section 4521.08 Hearing upon denial of parking infraction charge.

Effective: October 9, 1989

Legislation: House Bill 373 - 117th General Assembly

(A) If a person who is personally or constructively served with a parking ticket charging the commission of a parking infraction or who receives a notification of infraction, in his answer to the charge denies that he committed the infraction, the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or the juvenile court, that has jurisdiction shall conduct a hearing to determine if the person committed the parking infraction. Each hearing shall be conducted by a hearing examiner of the parking violations bureau or joint parking violations bureau, a hearing examiner or referee of the traffic violations bureau, or a referee of the juvenile court. Each hearing shall be conducted in such manner as the hearing examiner or referee considers appropriate. Rules regarding the admissibility of evidence shall not be strictly applied in the hearing, but all testimony shall be under oath.

At the hearing, the local authority whose ordinance, resolution, or regulation allegedly was violated and resulted in the charge has the burden of proving, by a preponderance of the evidence, that the person for whom the hearing is being conducted committed the parking infraction. If the person, in his answer, denied that he committed the parking infraction and requested the presence at the hearing of the law enforcement officer who issued the parking ticket, the officer shall be required to attend the hearing unless the hearing examiner or referee determines that the officer's presence is not required. If the officer's presence at the hearing has been requested and the officer is unable to attend the hearing on the day and at the time scheduled, the hearing examiner or referee may grant a reasonable continuance. The person for whom the hearing is being conducted may present any relevant evidence and testimony at the hearing. The person does not have to attend the hearing if he submits documentary evidence to the hearing examiner or referee prior to the day of the hearing.

The local authority shall submit the original parking ticket that was personally or constructively served on the person or a true copy of that ticket, and information from the bureau of motor vehicles that identifies the owner of the vehicle. The ticket and the information in proper form is prima-facie evidence that the registered owner of the vehicle was the person who committed the parking infraction. The local authority may present additional evidence and testimony at the hearing. The



local authority does not have to be represented at the hearing by an attorney.

(B)(1) If a person for whom a hearing is to be conducted under division (A) of this section appears at the scheduled hearing or submits evidence in accordance with that division, the hearing examiner or referee shall consider all evidence and testimony presented and shall determine whether the local authority has established, by a preponderance of the evidence, that the person committed the parking infraction. If the hearing examiner or referee determines that the person committed the infraction, an order indicating the determination as a judgment against the person and requiring the person to pay the appropriate fine and any additional penalties shall be entered in the records of the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or the juvenile court, whichever is applicable.

(2) If a person for whom a hearing is to be conducted under division (A) of this section fails to appear at the scheduled hearing and fails to submit evidence in accordance with that division, the hearing examiner or referee shall, if he determines from any evidence and testimony presented at the hearing, by a preponderance of the evidence, that the person committed the parking infraction, enter a default judgment against the person and require the person to pay the appropriate fine and any additional penalties. A default judgment entered under this division shall be entered in the records of the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or the juvenile court, whichever is applicable.

(3) If a person who is sent a notification of infraction pursuant to section 4521.07 of the Revised Code does not timely answer, as provided in division (C) of that section, the hearing examiner of the parking violations bureau or joint parking violations bureau, the hearing examiner or referee of the traffic violations bureau, or the referee of the juvenile court, whichever is applicable, shall, if he determines from any evidence and testimony presented to him by the local authority, by a preponderance of the evidence, that the person committed the parking infraction, enter a default judgment against the person and require the person to pay the appropriate fine and any additional penalties. A default judgment entered under this division shall be entered in the records of the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or the juvenile court, whichever is applicable.

(4) If the hearing examiner or referee does not determine, by a preponderance of the evidence, that a



person in any of the classes described in division (B)(1), (2), or (3) of this section committed the parking infraction, the hearing examiner or referee shall enter judgment against the local authority whose ordinance, resolution, or regulation allegedly was violated, shall dismiss the charge of the parking infraction against the person, and shall enter the judgment and dismissal in the records of the traffic violations bureau, joint parking violations bureau, or parking violations bureau, or the juvenile court, whichever is applicable.

(5) A default judgment entered under this section may be vacated by the hearing examiner or referee who entered it if all of the following apply:

(a) The person against whom the default judgment was entered files a motion with the proper parking violations bureau, joint parking violations bureau, or traffic violations bureau, or the proper juvenile court within one year of the date of entry of the judgment;

(b) The motion sets forth a sufficient defense to the parking infraction out of which the judgment arose;

(c) The motion sets forth excusable neglect as to the person's failure to attend the hearing or answer the notification of infraction.

(C) Payment of any judgment or default judgment entered against a person pursuant to this section shall be made to the violations clerk of the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or to the clerk of the juvenile court, in which the judgment was entered within ten days of the date of entry. All money paid in satisfaction of a judgment or default judgment shall be disbursed by the clerk to the local authority whose ordinance, resolution, or regulation was violated, and the clerk shall enter the fact of payment of the money and its disbursement in the records of the bureau or juvenile court. If payment is not made within this time period, the judgment or default judgment may be filed with the clerk of the municipal court or county court within whose territorial jurisdiction the ordinance, resolution, or regulation was violated, and when so filed, shall have the same force and effect as a money judgment in a civil action rendered in that court.

Judgments and default judgments filed with a court pursuant to this division shall be maintained in a separate index and judgment roll from other judgments rendered in the court. Computer printouts,



microfilm, microdot, microfiche, or other similar data recording techniques may be utilized to record such judgments. When a judgment or default judgment is filed with a court, execution may be levied, and such other measures may be taken for its collection as are authorized for the collection of an unpaid money judgment in a civil action rendered in that court. The municipal or county court may assess costs against the judgment debtor, in an amount not exceeding ten dollars for each parking infraction, to be paid upon satisfaction of the judgment.

(D) Any person against whom a judgment or default judgment is entered pursuant to this section and any local authority against whom a judgment is entered pursuant to this section may appeal the judgment or default judgment to the municipal court or county court within whose territorial jurisdiction the ordinance, resolution, or regulation was violated if the judgment or default judgment was entered by a bureau, or to a judge of the juvenile court within whose territorial jurisdiction the ordinance, resolution, or regulation was violated if the judgment or default judgment was entered by a referee of a juvenile court, by filing notices of appeal with the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or the referee of the juvenile court, in which the judgment was entered, and the municipal or county court or the clerk of the juvenile court within fifteen days of the date of entry of the judgment and by the payment of such reasonable costs as the court or juvenile judge requires. Upon the filing of an appeal, the court or juvenile judge shall schedule a hearing date and notify the parties of the date, time, and place of the hearing. The hearing shall be held by the court or juvenile judge in accordance with the rules of the court. Service of a notice of appeal under this division by a person does not stay enforcement and collection of the judgment or default judgment from which appeal is taken by the person unless the person who files the appeal posts bond with the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or the juvenile court, in the amount of the judgment, plus court costs, at or before service of the notice of appeal.

Notwithstanding any other provision of law, the judgment on appeal of the municipal or county court or of the juvenile judge is final, and no other appeal of the judgment of the parking violations bureau, joint parking violations bureau, or traffic violations bureau, or of the referee of the juvenile court, whichever is applicable, and no appeal of the judgment of the municipal or county court or of the juvenile judge may be taken.

(E) A judgment or default judgment entered pursuant to this section may be filed with a municipal



court or county court under division (C) of this section at any time within three years after the date of issuance of the parking ticket charging the parking infraction out of which the judgment arose. This division applies to any ticket issued for an offense that would be a parking infraction on or after the effective date of this section, if the ticket was issued within three years prior to the effective date of this section and a warrant has not been issued and served on the operator or owner of the vehicle involved in the offense.