

Decision No. 20554

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

MOTOR COACH COMPANY, a
Corporation, Complainant,

-vs-

WEST SIDE TRANSIT COMPANY,
a Corporation, Defendant

CASE NO. 2604

Bruce Mason, for Complainant.

Todd, Pawson & Watkins, by
J. E. Pawson, for Defendant.

BY THE COMMISSION:

OPINION

Complainant herein alleges that defendant herein has illegally transported passengers over its auto stage line between Long Beach and Torrance and vice versa and by round trips; that defendant, under its certificate granted by this Commission, is restricted from such transportation; that such transportation is in violation of a stipulation of agreement with complainant, and complainant prays that the Commission make its order requiring the defendant to desist from any such transportation. Defendant herein, by its answer duly filed, specifically denies each and all of the allegations of the complaint.

Upon the issues thus joined, a public hearing was conducted by Examiner Williams at Los Angeles, at which time the matter was submitted for decision.

Complainant herein conducts a stage service under certificate of this Commission, between Long Beach and Torrance via Lomita. Defendant herein conducts a stage service between Long Beach and Manchester Avenue in the city of Los Angeles, via Lomita and Torrance, by authority of Decision No. 17521 on Application No. 11812, but is restricted from transporting passengers between Long Beach and Torrance, the restriction being based upon its stipulation filed in the above numbered proceeding that it would not so do, such service between terminals having already been established by complainant.

In support of its allegations, complainant produced C. W. Heath, a professional investigator employed by complainant to check on the service being conducted by defendant herein. Mr. Heath testified that on August 20 he boarded stage No. 14 of defendant company at Ocean and Pacific Avenues in Long Beach; that he tendered defendant money for a fare to Torrance; that the driver of the stage accepted the fare, charging him 40¢ which (according to stipulation) was the fare to Moneta, a point north of Torrance and served by defendant. Witness testified that he left the car at Torrance. On August 21, similarly defendant was asked for transportation to Torrance, and charged a fare of 30¢. No fare of 30¢ is shown in the tariffs of defendant.

On August 22, witness boarded stage No. 14 in the city of Torrance, and tendered money for a fare between Torrance and Long Beach. He testified that 40¢ was collected out of the money tendered. He also testified that another passenger boarded the car opposite the plant of the Union Tool Company in Torrance, and was transported to Pine Street in Long Beach.

On August 29, witness testified he boarded the stage at Ocean and Pacific Avenues, Long Beach, and tendered money for a round trip fare to Torrance and return; that the driver of the vehicle manipulated the fare register and returned to him two tickets, one calling for passage between Torrance and Davidson City, and the other between Davidson City and Long Beach. The return trip tickets (Exhibit #1) were admitted without objection into the record, and were stipulated by defendant to be tickets issued from its fare register. Witness had a similar experience boarding a car at Torrance and paying a fare of 65¢ for a round trip. The unused ticket (Exhibit #2) was returned to him and placed in evidence.

L. W. Zipf, acting for Heath, testified that on August 27, 28 and 29, he procured passage in a similar manner between Torrance and Long Beach. In one case he was charged 30¢ fare, and in another 40¢.

H. S. Shiffner, driver for the defendant on vehicle No. 14 and other vehicles used in the service, testified that he remembered the transaction with Heath on the 28th of August, and declared he advised Heath he could not sell a ticket to Torrance, but could only sell him a ticket to points north or south of Torrance, as they were restricted from serving this point, and that Heath thereupon asked for a ticket to Moneta and rode on the stage to Torrance where he disembarked. He further testified that he referred all Torrance passengers to complainant's line. In rebuttal, Heath positively declared no such information was given him, and that he merely asked for a ticket to Torrance and was charged the fare to Moneta without any further discussion.

Fred Rife, manager of defendant company, testified he had examined the tabulations as to the dates of fare given by com-

plainant's witnesses; that he found no sales of any tickets to Torrance upon that date. Questioned about Exhibit No. 1, tickets 9368 and 9370, he said they might indicate a continuous journey or they might not. These are the tickets received by witness Heath when he applied for a round trip between Long Beach and Torrance.

Heath explained that at the time he received these tickets, the numbers were not serially continuous, because he had already received ticket No. 9369 and at the request of the driver he exchanged this ticket with another passenger, as the driver had made a mistake in issuing them. These tickets indicate that fare was paid from Long Beach to Davidson City 25¢, and from Davidson City to Moneta 25¢.

Mr. Rife explained that he had instructed all drivers that they were restricted from hauling passengers between Long Beach and Torrance, and that no complaint had been made to him by complainant or anyone else of any violation of this restriction, and that if any such transportation had been conducted, it was without his knowledge. The restriction under which defendant operates is condition No. 1 in the order in Decision 17581 on Application 11812 of the West Side Transit Co., dated November 8, 1926. It reads:

The operative right herein conferred does not authorize any local service within the City of Los Angeles, nor the carriage of passengers originating in or destined to points within the municipal boundaries of the City of Long Beach, when such passengers originate in or are destined to points within the corporate limits of the City of Torrance.

This condition carried out a written stipulation between the parties in the same tenor and the same language, and the order was duly accepted by defendant herein, and it has been operating through Torrance ever since.

Under the record before us, it appears quite plain that this carrier has not exercised the necessary care that it should have exercised to carry out this stipulation. Permitting passengers to buy tickets to points beyond Torrance, well knowing they intended to disembark at Torrance, is, without question, a violation of the restriction and repugnant to the stipulation entered into by defendant. Complainant has established this fact, and whether the management of the defendant company knew this or did not, it benefited by the acts of its agents, and to that extent injured the service already established by complainant herein.

The language of condition No. 1 quoted above is such that defendant is under obligation not to receive any passengers whose destination is Torrance or Long Beach, and the practice of selling tickets for points either side of Torrance or Long Beach to the destination is a subterfuge and should be strictly forbidden by defendant at all times. It is not even palliative for the management of an operation, under such a clear restriction, to offer the excuse that it did not know its instructions were being violated. We believe complainant herein is entitled to an order against defendant requiring it to desist in the future from any transportation of passengers in violation of its stipulation and condition No. 1 of the order. An order accordingly will be entered.

O R D E R

This complaint having been duly heard before the Commission, evidence having been duly presented, and the Commission having considered the evidence, and basing its findings upon the facts in the record and in the foregoing opinion;

IT IS HEREBY ORDERED that the defendant do, and it is, hereby ordered and required forthwith to desist from receiving any passengers at Long Beach or Torrance, when the origin or destination of such passengers is at either place, as required by condition No. 1 in the order in Decision 17521 on Application 11812.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission mail a certified copy of the Opinion and Order herein to the District Attorney of Los Angeles County.

The foregoing opinion and order are hereby adopted as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 3rd day of December, 1926.

Leon Whitell
D. Stearns
Ernest Scott
M. R. ...
COMMISSIONERS