

Decision No. 24450

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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Harry See, the Brotherhood of Railroad
Trainmen, by Harry See, its State
Representative,

Complainant,

vs.

The Atchison, Topeka and Santa Fe
Railway Company,

Defendant.

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) Case No. 3147
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BY THE COMMISSION:

ORDER OF DISMISSAL

The complaint herein alleges a violation of Section 2 of the Full Crew Law, Statutes of 1911, page 65. It is charged that the defendant, on October 1, 1931, operated a freight train of more than 49 cars between Riverbank and Calwa, California, with a crew consisting of a conductor and two brakemen, whereas the statute requires that three brakemen be provided under such circumstances.

A letter from the defendant Railway Company, which may be taken as its answer to the complaint, admits the facts as alleged. It shows, however, that the train in question was provided at Riverbank with a full quota of brakemen aboard, but due to the failure of the rear brakeman to reboard the train as it passed through a spring switch at the end of the yards, a fact unknown at the time to the conductor, the train proceeded to the next division point with an insufficient crew.

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Plaintiffs apparently accept such explanation of the facts to be an admission of a violation of the statute, and ask, therefore, that the Commission not set the matter for hearing. But were the answer so treated, it is obvious that the violation was inadvertent and that this is not a case where an order should be made invoking the penalty provisions of the statute.

Accordingly, it is ordered that the complaint as above entitled be and the same is hereby dismissed.

Dated at San Francisco, California, this 1st
February
day of January, 1932.

C. L. Jensen
Leon Whitely
M. A. Lee
M. B. Harris
Fred G. Stewart
Commissioners