

Decision No. 25017.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA INTERURBAN MOTOR
TRANSPORTATION ASSOCIATION,

Complainant,

vs.

CHARLES HAIR, doing business
as Hair Trucking Company,

Defendant.

Case No. 3246

H. J. Bischoff, for Complainant.

H. E. Lindersmith, for Defendant.

CARR, Commissioner:

O P I N I O N**ORIGINAL**

On April 22, 1932 California Interurban Motor Transportation Association filed its complaint against Charles Hair, doing business as Hair Trucking Company, alleging that the latter was operating as a transportation company between Riverside on the one hand and Los Angeles and Los Angeles Harbor on the other, without having a certificate of public convenience and necessity. Defendant, in the answer filed on May 17, 1932, took issue with this allegation.

A public hearing was had on June 23rd and the matter is now under submission and ready for decision.

The facts as developed at the hearing may be summarized briefly as follows:

Charles Hair, operating under the name of Hair Trucking Company, for some time has been doing a local drayage and trucking business at Riverside. He has trucked a considerable quantity of hay and straw from points in the Perris Valley to various points in Southern California. He has also done some load trucking between Riverside and Los Angeles and Los Angeles Harbor, the latter being a relatively unimportant part of his business.

Recently Hair got into some financial difficulties and the business was voluntarily, but without any court proceedings, turned over to his creditors who, through a representative committee, have assumed some general supervision of the business. Hair, however, has continued in active charge and has advertised in the Riverside local paper under the name of Hair Trucking Company, Hauling Contractors, for local and long distance hauling.

The Victoria Avenue Citrus Association this year contracted with a Mr. Barnes to haul oranges to Los Angeles Harbor. Barnes farmed out some of the business to Hair, who received compensation at the rate for which Barnes contracted. In February and March, Hair hauled several loads of roofing material for Hammond Lumber Company from the Harbor to Riverside. He hauls about 30 tons of newspapers a month from the Harbor to Riverside for the Riverside Press under a verbal "contract", the arrangement terminable at will of either party. He has hauled a few loads of freight from the Harbor to Riverside for Valley Feed Mills. About three times in 1931 he hauled truck loads of freight from the Harbor to Riverside for the Riverside Foundry. He also did a little hauling from the Harbor to Riverside for the Parker Machine Works.

A fair deduction from the testimony is that Hair was after what business he could get in the line of load haulage between Riverside and Los Angeles and Los Angeles Harbor to supplement his other and principal business. His operations between these points are clearly in violation of the Auto Stage and Truck Transportation Act (Chapter 213, Statutes of 1917, as amended). The Commission should order him to cease and desist.

An order of this Commission finding an operation to be unlawful and directing that it be discontinued is in its effect not unlike an injunction issued by a court. A violation of such order

constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vests the Commission with power and authority to punish for contempt in the same manner and to the same extent as courts of record. In the event a party is adjudged guilty of contempt, a fine may be imposed in the amount of \$500.00, or he may be imprisoned for five (5) days, or both. C.C.P. Sec. 1218; Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224; re Ball and Hayes, 37 C.R.C. 407; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v. Keller, 33 C.R.C. 571.

It should also be noted that under Section 8 of the Auto Truck Act (Statutes 1917, Chapter 213), a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$1000.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Likewise a shipper or other person who aids or abets in the violation of an order of the Commission is guilty of a misdemeanor and is punishable in the same manner.

The Secretary of the Commission should be directed to mail certified copies of this opinion and order to shippers who appeared as witnesses in the course of the proceeding and to other shippers who are known to be using the service and facilities of defendant upon the said opinion and order becoming final.

The following form of order is recommended:

ORDER

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and being now ready for decision,

IT IS HEREBY FOUND AS A FACT that defendant Charles Hair, doing business as Hair Trucking Company is engaged in the

transportation of property by auto truck for compensation, and as a common carrier, between fixed termini and over a regular route on the public highways of this state, viz: between Riverside and Los Angeles and Los Angeles Harbor without first having obtained a certificate of public convenience and necessity for such operations, as required by the Auto Stage and Truck Transportation Act (Chapter 213, Statutes of 1917, as amended). Therefore,

IT IS HEREBY ORDERED that defendant Charles Hair, doing business as Hair Trucking Company shall immediately cease and desist such common carrier operations, as described in the preceding paragraph, unless and until he shall obtain a certificate of public convenience and necessity therefor, and

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon defendant Charles Hair, doing business as Hair Trucking Company; that he cause certified copies thereof to be mailed to the District Attorneys of Riverside and Los Angeles Counties and, upon this decision becoming final, he shall cause certified copies thereof to be mailed to shippers who appeared as witnesses in the course of this proceeding and to other shippers who are known to be using the service and facilities of defendant.

The effective date of this order shall be twenty (20) days after the date of service upon defendant, Charles Hair.

Dated at San Francisco, California, this 1st day of

August 1932.

C. C. [Signature]
Leon [Signature]
M. B. [Signature]
James G. [Signature]
COMMISSIONERS.