

Decision No. 30622

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation, )  
on the Commission's own motion, into )  
the operations, rates, charges, con- )  
tracts and practices, or any thereof, )  
of ED ROYCE. )

Case No. 4248

ORIGINAL

Harold W. Dill, for Truck and Warehouse Association  
of San Diego and Imperial Counties, as its  
interest may appear.  
Ed. Royce, in propria persona.

BY THE COMMISSION:

O P I N I O N

The Commission, after receiving a complaint to the effect that respondent had not charged or collected the minimum rates established by Decision No. 28810 in Case No. 4086 for the transportation of used household goods, furniture and personal effects, instituted this action for the purpose of investigating respondent's rates and practices, ascertaining if a violation occurred and for the purpose of determining whether or not any permit or permits held by respondent should be cancelled, revoked or suspended for such violation.

A public hearing was had before Examiner E. S. Williams at El Centro on October 19, 1937, at which time the matter was submitted. Respondent, who holds Radial Highway Common Carrier Permit No. 13-180, Highway Contract Carrier Permit No. 13-45 and City Carrier Permit No. 13-46, appeared personally. An appearance was entered for Truck and Warehouse Association of San Diego and Imperial Counties, as its interest might appear. The nature of its counsel's participation in the hearing would indicate this interest was the defense of respondent.

The testimony related to a shipment of uncrated household furniture and personal effects transported by respondent for L. M. Stoiber on April 4, 1937, from a point four and one-half miles southwest of El Centro, to Alpine, San Diego County, a distance of approximately ninety-four miles. The shipment consisted of household furniture for four rooms, an ice box and a kitchen range.

The chief inspector for the Commission testified that upon receiving complaint from another carrier, he interviewed respondent at El Centro regarding this move. Respondent acknowledged to the inspector that he performed the service and said that he had charged Stoiber a flat price of \$25.00 but had received an additional \$5.00, or a total of \$30.00, when the job was completed; that he had not weighed the furniture but estimated the weight to have been between 2300 and 2500 pounds; that he knew minimum rates for such transportation had been established by the Railroad Commission, but that he did not recall whether or not he had received a copy of the order establishing the rate; that the amount he collected for the hauling was probably less than required by the order, but that he would abide by the rates in the future. Respondent stipulated at the hearing that he had been served with a copy of the order establishing furniture rates prior to the transaction involved herein.

Stoiber testified that he was unable to recall the amount he had paid respondent for the transportation, and could only say that respondent had told him prior to the hearing that the amount was \$40.00. He further stated that before engaging respondent another carrier had estimated that the cost of the transportation on a weight basis (evidently at the minimum rate) would be \$80.00 and that he engaged respondent as he was an old friend and thought respondent would perform the job at a lesser figure.

A second inspector for the Commission testified he had inspected the furniture in Stoiber's house at Alpine, and estimated the weight at between 2500 and 3000 pounds.

Under the order establishing minimum rates for transportation of uncrated household goods, furniture and personal effects in effect at the time of the transaction (Decision No. 28810), the minimum charge for the transportation of Stoiber's shipment, assuming as the correct weight respondent's lowest estimate of 2300 pounds, would be \$32.60. It seems plain from the evidence of respondent's conversation with the Commission's investigator that respondent made no attempt to comply with the order of the Commission to charge and collect the minimum rate for his service. If the charge made by respondent was in compliance with the minimum rate order, that compliance was purely accidental. In all probability respondent did not receive the minimum rate. Nevertheless, in view of Stoiber's unfortunate failure to recall and to testify definitely as to the charge paid for the move, it cannot be found that respondent violated the order.

Decision No. 28810, which originally established rates for transportation of used household goods, furniture and personal effects, has now been superseded by Decision No. 29891. The latter decision requires carriers to issue and retain for a period of three years freight bills showing the rate and all data necessary to determine the propriety of the charge for the service performed. A similar requirement is included in most of the other rate orders issued by the Commission. Respondent is admonished to bear this requirement in mind in his future operations.

O R D E R

Public hearing having been held in the above entitled proceeding, the matter having been submitted and the Commission now being fully advised,

IT IS HEREBY ORDERED that said proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 14<sup>th</sup> day of February, 1938.

Matthew  
Leon  
Frank P. Blain  
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Commissioners.