

Decision No. 33890

ORIGINAL

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 CLAYTON HILL, doing business as
FOREST TRANSFER AND STORAGE COMPANY.

Case No. 4445

Clayton Hill, in propria persona

R. P. Dix, of Leimert Park Van & Storage,
interested party

BY THE COMMISSION:

O P I N I O N

This proceeding was instituted by the Commission on its own motion to investigate the operations of Clayton Hill, hereinafter referred to as respondent.¹ The Commission seeks to determine whether or not respondent has violated the Commission's orders² by rendering a transportation service at less than the rates and by failing to issue proper freight bills, as prescribed by said orders.

Public hearing in this matter was held at Los Angeles on October 20, 1939, before Examiner Cameron. Respondent appeared, evidence was received, the matter submitted and the same is now ready for decision.

The record discloses that respondent, during the entire month of February, 1939, conducted a business as a carrier, as that term is defined in Section 1-(f) of the City Carriers' Act (Chapter 312, Statutes of 1935, as amended), and that all of the hereinafter

¹ City Carrier's permit No. 19-1229, dated November 8, 1935, issued to Clayton Hill, doing business as Forest Transfer and Storage Company.

² Decision No. 29891, in Case No. 4086, as modified by Decision No. 30482.

described transportation services were performed by said respondent with a motor vehicle having a loading area greater than 90 square feet including tailgate. Said transportation services were performed in the territory designated by Decisions No. 29891 and No. 30482, and minimum rate orders contained therein, in Case No. 4086, as territory "B". The evidence further discloses that respondent was served with notices of the hearings wherein said decisions and the minimum rate orders contained therein were issued, and in addition was served with said decisions containing said minimum rate orders. It was also established that respondent had personal knowledge of the contents of said decisions and orders.³

On February 25, 1939, said respondent transported uncrated household goods and effects for Mrs. Miller, from 642½ South Detroit Avenue, to 501 South Catalina Street, both addresses in the City of Los Angeles. The service was performed in 7 hours and 45 minutes. Four men were employed two and one-half hours and two men were employed the remainder of said time. The minimum total charge collectible for said transportation service as above set out, in accordance with the minimum rates, rules and regulations prescribed by said Decisions No. 29891 and No. 30482, is \$36.00, but only the sum of \$34.90 was collected.

On February 27, 1939, respondent delivered uncrated household furniture from 2529 West 73rd Street, to 3734 Lorado Way, both addresses in the City of Los Angeles. Said transportation service was performed by two men in 3 hours and 15 minutes. The minimum total charge collectible for said transportation service as above set out,

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Order of Investigation in Case No. 4086 served on respondent
November 26, 1935.
Decision No. 29891 in said Case served on respondent July 20, 1937.
Decision No. 30482 in said Case served on respondent January 15, 1938.

in accordance with the minimum rates, rules and regulations prescribed by said Decisions No. 29891 and No. 30482, is \$13.00, but only the sum of \$11.40 was collected.

The testimony further discloses that on February 11th and 15th, 1939, respondent transported uncrated household goods and effects. Said service performed by respondent on February 11th was from 3307 West 60th Street, to 735 West 111th Street, both addresses in the City of Los Angeles. Said service required two men 3 hours to perform. The sum of \$10.50 was collected whereas the lawful charge collectible in accordance with the minimum rates, rules and regulations prescribed by said Decisions No. 29891 and No. 30482, is \$12.00. Thereafter, on February 15, 1939, respondent transported uncrated household goods and effects from 2815 West 60th Street, to 1316 $\frac{1}{2}$ South Bronsen Avenue, both addresses in the City of Los Angeles. This transportation service required two men 3 hours and 30 minutes to perform. The minimum total charge collectible for said transportation service as above set out, in accordance with the minimum rates, rules and regulations prescribed by said Decisions No. 29891 and No. 30482, is \$14.00, but only the sum of \$12.25 was collected.

Frank A. Meyers testified he was employed by respondent and had on several occasions informed respondent that he was charging rates less than those prescribed by said Railroad Commission decisions. It is apparent from the testimony and the documentary evidence that respondent has performed said transportation services in violation of the Commission's said orders and of the provisions of said City Carriers' Act.

An order of the Commission directing the suspension of an operation is in its effect not unlike an injunction by a court. A violation of such order constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vest 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. 1212;
Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224;
Re Hall & 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 be noted that under Section 13 of the City Carriers' Act (Chapter 312, Statutes 1935, as amended) one who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$500.00, or by imprisonment in the county jail not exceeding three (3) months, or by both such fine and imprisonment.

Respondent is cautioned not to undertake to sell, furnish, or provide transportation to be performed by any other carrier on a commission basis or for other consideration while his permit is in suspension unless he shall first obtain the license required by the Motor Transportation Broker Act (Chapter 705, Statutes 1935,). It is to be noted that under Section 16 of said Motor Transportation Broker Act, one who engages in business as a transportation broker, without the necessary authority, is subject to a fine of not to exceed \$500.00, or to imprisonment in the county jail for a term not to exceed six (6) months, or to both such fine and imprisonment.

F I N D I N G S

Upon consideration of the record in this proceeding,

IT IS HEREBY FOUND that respondent, Clayton Hill, transported uncrated household goods, furniture and personal effects as a carrier, as that term is defined in Section 1-(f) of the City Carriers' Act (Chapter 312, Statutes 1935, as amended), as follows, to-wit: on February 25, 1939, from 642½ South Detroit Avenue, to 501 South Catalina Street, both addresses in the City of Los Angeles; on February 27, 1939, from 2529 West 73rd Street, to 3734 Lorado Way, both addresses in the City of Los Angeles; on February 11, 1939,

from 3307 West 60th Street, to 735 West 11th Street, both addresses in the City of Los Angeles; and on February 15, 1939, from 2815 West 60th Street, to 1316½ South Bronson Avenue, both addresses in the City of Los Angeles.

That said respondent performed all of the above described transportation services at rates and charges less than the minimum rates and charges prescribed for said transportation service in Decisions No. 29891 and No. 30482, issued in Case No. 4086, in violation of said decisions and said City Carriers' Act.

O R D E R

Public hearing having been held, the matter having been duly submitted, and the Commission now being fully advised:

IT IS HEREBY ORDERED that respondent, Clayton Hill, shall immediately cease and desist from charging, demanding, collecting, or receiving, for the transportation, as such carrier, of any of the property described in Decisions No. 29891 and No. 30482, as amended, in Case No. 4086, between any of the points therein specified, any rates or charges less than the rates and charges prescribed for such transportation service in said decisions, as amended.

IT IS HEREBY FURTHER ORDERED that City Carrier's Permit No. 19-1229, dated November 8, 1935, issued to and held by said respondent, Clayton Hill, be and the same is hereby suspended for a period of 7 days; that said 7 day period of suspension shall commence on the 17th day of June, 1940, and continue to the 23rd day of June, 1940, both dates inclusive, if service of this order shall have been made upon said respondent more than 20 days prior to the 17th day of June, 1940, otherwise said 7 day period of suspension shall commence on the effective date of this order and continue for a period of 7 days thereafter.

IT IS HEREBY FURTHER ORDERED that during said period of

suspension, said respondent, Clayton Hill, his agents, servants, employees, aiders and abettors, shall desist and abstain from conducting, directly or indirectly, or by any subterfuge or device, the transportation of property as a carrier, as that term is defined in the City Carriers' Act (Chapter 312, Statutes 1935, as amended), for compensation or hire as a business over any public highway in this state by means of a motor vehicle or motor vehicles and from performing any transportation service as said carrier.

IT IS HEREBY FURTHER ORDERED that for all other purposes the effective date of this order shall be twenty (20) days from and after the service hereof upon said respondent.

Dated at *San Francisco*, California, this *14th* day of *May* 1940.

Ray L. Lacey
Frank H. Hughes
Robert W. Lohmeyer
W. H. M. C.

COMMISSIONERS