

Decision No. 32325

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, of FRANCIS A.)
LORD, an individual, doing business)
as FRANCIS A. LORD TRANSFER and as)
CONTINENTAL VAN & STORAGE.)

ORIGINAL

Case No. 4563

Francis A. Lord, in propria persona

BY THE COMMISSION:

O P I N I O N

The Commission issued an order on its own motion to investigate certain transportation services rendered by Francis A. Lord, an individual, doing business as Francis A. Lord Transfer and as Continental Van & Storage, to determine whether or not said services were performed at rates and charges less than the minimum rates and charges prescribed by the Commission.

Public hearing was held at Los Angeles on December 10, 1940, before Examiner Cameron, at which time respondent entered an appearance in propria persona, evidence was received and the matter was submitted and the same is now ready for decision.

The undisputed evidence shows that respondent was engaged in the transportation of property by motor vehicle for compensation as a business on August 14 and 15, 1940, as a carrier, as that term is defined in Section 1(f) of the City Carriers' Act (Stats. 1935, Chap. 312, as amended) and was the holder of

1 Transportation of uncrated household furniture and personal effects on or about August 15, 1940, from 7920 South Central Avenue, to 5210 Inadale Avenue, both addresses in the City of Los Angeles, California, as a carrier, in violation of Decision No. 32325 issued in Case No. 4086.

city carrier permit No. 19-1154.

The testimony of Betty June Mechura shows that her mother employed respondent on August 14, 1940, and that she was present at the time her mother made the arrangements for the transportation service. She also testified that on the following day, August 15, 1940, respondent came to 7920 South Central Avenue and picked up several pieces of household goods and personal effects consisting, among other things, of two bedroom sets; that said property was transported by respondent to 5210 Inadale Avenue, both addresses in the City of Los Angeles; that upon the completion of said transportation service she paid respondent the sum of \$10.50 in cash as payment in full and received from said respondent a receipt therefor.

Inspector Jess B. Young of the Railroad Commission testified that he was present and observed the complete transportation service on August 15, 1940; that a driver and helper were employed in performing said service and that respondent commenced loading said truck at 7920 South Central Avenue at 11:15 a.m. and completed said loading at 12:45 p.m.; that said truck left said last mentioned address at 12:47 p.m. and arrived at 5210 Inadale Avenue at 1:13 p.m.; that unloading then commenced at 1:15 p.m. and was completed at 2:25 p.m.

There was some conflict in the testimony of Inspector Young and that of witness Mechura and respondent as to the exact time at which loading was commenced at 7920 South Central Avenue. Respondent's voluntary testimony was identical to that of witness Mechura, both testifying that they were of the opinion that loading commenced at 11:30 a.m., while witness Young testified he had timed the entire job and that loading commenced at 11:15 a.m. The evidence shows that respondent called on witness Mechura, at which time they discussed the matter of time of loading and unloading. This discussion occurred after the order instituting investigation was served on respondent and a short time prior to the hearing, which

was several weeks after the transportation services were performed. It appears, therefore, that they may have been mistaken as to the exact time involved. But even accepting respondent's testimony as to the starting time, the amount collected is an undercharge, as will hereafter be shown.

The truck used by respondent had a loading capacity greater than 70 square feet. The minimum rates, rules, and regulations established by the Commission in its Decision No. 32325, where a driver and helper are employed, is \$3.50 per hour for the time of loading, plus double the driving time from point of origin to point of destination, plus the time of unloading. The total minimum charge which respondent should have collected in accordance with the minimum rates, rules, and regulations was \$12.25. Respondent therefore charged and collected \$1.75 less than said minimum rates. If respondent's calculation of the time is used, an undercharge of 88 cents results.

The undisputed evidence further shows that respondent had knowledge of the minimum rates established by said Commission for said transportation service, and further, that on June 15, 1938,² and again on August 23, 1939,³ the Commission communicated with respondent by mail, calling his attention to the fact that failure to comply with the minimum rate orders issued by the Commission constituted a misdemeanor and subjected the violator to certain other penalties, and informed respondent that ". . . hourly rates shall be computed on the following basis: loading time plus double the driving time from point of origin to point of destination, plus unloading time . . ."

Respondent's city carrier permit should be suspended and he should be directed to cease and desist from performing any transportation service as a carrier, as that term is defined in the City Carriers' Act, in the future at rates less than the minimum rates established by the Commission, and that he also

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2. Exhibit No. 5
 3. Exhibit No. 6

be directed to refrain from any transportation service as a city carrier during the period of suspension of his city carrier permit.

An order of the Commission directing the suspension of an operating right and directing an illegal practice to cease and desist 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. 1218;
Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224;
Re Ball & Hayes, 37 C.R.C. 407;
Wernuth 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 13 of the City Carriers' Act (Stats. 1935, Chap. 312, 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.

Upon full consideration of all the facts of record, it is hereby found that respondent Francis A. Lord, doing business as Francis A. Lord Transfer and as Continental Van & Storage, has engaged in the transportation of property by motor vehicle for hire as a business over the public highways in the City of Los Angeles, California, as a carrier, as defined in Section 1(f) of the City Carriers' Act, and in the course of said business has transported uncrated household goods and personal effects as more particularly described in the foregoing opinion, at rates less than the minimum rates established therefor by the Commission.

O R D E R

Public hearing having been held herein, evidence having been received, the matter having been submitted and the Commission now being fully advised in the premises,

IT IS HEREBY ORDERED that FRANCIS A. LORD, be and he is hereby directed to immediately cease and desist and thereafter abstain, directly or indirectly, or by any subterfuge or device, from charging or collecting any rate or rates less than the minimum rates therefor, established by the Commission in its Decision No. 32325 in Case No. 4086, for the transportation of property for compensation or hire by means of a motor vehicle over the public highways in any city or city and county in this State, as a carrier as defined in the City Carriers' Act (Stats. 1935, Chap. 312, as amended).

IT IS HEREBY FURTHER ORDERED that city carrier permit No. 19-1154, issued to and held by said respondent, FRANCIS A. LORD, be and the same is hereby suspended for a period of seven (7) days; that said seven day period of suspension shall commence on the 24th day of March, 1941, and continue to the 30th day of March, 1941, both dates inclusive, if service of this order shall have been made upon said respondent more than twentydays prior to the 24th day of March, 1941, otherwise said seven day suspension shall commence on the effective date of this order and continue for a period of six days thereafter.

IT IS HEREBY FURTHER ORDERED that during said period of suspension said respondent FRANCIS A. LORD shall desist and abstain from engaging in the transportation of property as a carrier, as defined in the City Carriers' Act (Stats. 1935, Chap. 312, 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.

