

Decision No. 333945

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,
contracts and practices, of
HUGH PERRY.

ORIGINAL

Case No. 4564

Hugh Perry, in propria persona

BY THE COMMISSION:

O P I N I O N

This proceeding was instituted by the Commission on its own motion ordering an investigation of certain transportation services performed by respondent, Hugh Perry, on or about October 11, 1940,¹ to determine whether or not said transportation services were performed in violation of the Commission's minimum rate order,² and whether or not said respondent failed to issue to the shipper a freight bill substantially in the form prescribed by order of the Commission.³

Public hearing was held at Los Angeles on December 12, 1940, before Examiner Cameron. Respondent appeared in propria persona, evidence was received, the matter was submitted and the same is now ready for decision.

The evidence shows that on October 11, 1940, and for some time prior thereto, respondent was engaged in the business of transporting property by motor vehicle over the public highways

1 Transportation of household goods and personal effects from 1832 West 11th Place, and 977 South Westmoreland Avenue, to 2110 South Bronson Avenue, all in the City of Los Angeles, California.

2 C.R.C. Decision No. 32325, issued in Case No. 4086.

3 C.R.C. Decision No. 32325, Appendix "B" thereof, issued in Case No. 4086.

in the City of Los Angeles 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 city carrier permit No. 19-2452. Respondent was served with the proper notice of hearing establishing minimum rates, rules and regulations issued by the Commission in said Decision No. 32325 and was served with said decision.

The evidence shows that respondent was employed to transport household goods and personal effects, consisting of a dining room set, refrigerator, radio and five or six chairs. That on October 11, 1940, respondent came to 1832 West 11th Place and picked up a portion of said furniture, then proceeded to 977 South Westmoreland Avenue and there picked up the remainder of said furniture. Said furniture was then delivered to 2110 South Bronson Avenue, all addresses in the City of Los Angeles, California. Upon the completion of the transportation services respondent was paid \$5.00 in cash in full payment for all of said transportation services. Respondent issued no freight bill of any kind at the time said services were performed. Late in the afternoon of said day respondent returned to the last mentioned address and delivered a receipt in the amount of \$5.00.⁴

An Inspector of the Commission's staff was present on October 11, 1940, and observed said transportation services performed by respondent. The evidence shows that respondent arrived at 1832 West 11th Place and commenced loading his truck at 8:15 a.m. That loading was completed at 8:35 a.m., whereupon respondent immediately drove to 977 South Westmoreland Avenue, arriving at 8:40 a.m., and immediately commenced loading said truck with furniture. Loading at this latter address was completed at 9:05 a.m. Respondent then proceeded to 2110 South Bronson

4 Exhibit No. 1.

Avenue, where he arrived at 9:20 a.m. The unloading of said truck was then commenced and the same was completed at 9:45 a.m. on said day. The Commission's Inspector stopped respondent shortly after leaving said last mentioned address and in response to inquiry respondent replied in effect that he had received \$5.00 in cash and that he did not give any freight bill evidencing the transportation of said household goods and personal effects.

Respondent's truck had a loading capacity greater than 70 square feet, and a driver and helper were employed.

Respondent voluntarily testified and admitted the facts as above set out. He further stated that he did not give any freight bill to the shipper at the time said services were performed but that after talking with the Commission's Inspector returned to 2110 South Bronson Avenue on the evening of October 11, 1940, and delivered a receipt therefor.

The minimum rates and charges for the transportation services performed by respondent on October 11, 1940, must be computed on the basis of two shipments, allowing a 15 minute driving time for each shipment.⁵ The minimum rate established by the Commission pursuant to said aforementioned decision for the services performed by respondent as above set out is \$3.50 per hour and a total charge of \$6.13. Respondent performed said services at a \$1.13 undercharge.

Said respondent also violated the Commission's order by failure to issue a freight bill evidencing said transportation service.

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

5 City Carriers' Tariff No. 3, Item No. 11, paragraph (o), Rules and Regulations, Definition of Technical Terms; Item No. 10, paragraph (g).
Item No. 50, Shipments to be rated separately.
Item No. 101, paragraph (h), Application of Rates.

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;
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 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, it is hereby found that respondent, Hugh Perry, 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.

It is hereby further found that respondent, Hugh Perry, failed to issue a freight bill in the form prescribed and established by order of the Commission evidencing said transportation services performed by respondent as set out in the foregoing opinion.

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 respondent, Hugh Perry, shall immediately cease and desist from charging, demanding, collecting or receiving for the transportation as a carrier, as the term "carrier" is defined in the City Carriers' Act (Stats. 1935, Chap. 312, as amended), of any of the property described in Decision No. 32325, 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 in said decision.

IT IS HEREBY FURTHER ORDERED that respondent, Hugh Perry, shall immediately cease and desist from receiving shipments for transportation as a carrier, as defined in the City Carriers' Act (Stats. 1935, Chap. 312, as amended), without issuing to the shipper for each shipment so received a freight bill in substantially the form prescribed and established by order of the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that city carrier permit No. 19-2452, issued to and held by said respondent, Hugh Perry, be and the same is hereby suspended for a period of ten days; that said ten day period of suspension shall commence on the 17th day of March , 1941, and continue to the 26th day of March , 1941, both dates inclusive, if service of this order shall have been made upon said respondent more than twenty days prior to the 17th day of March , 1941, otherwise said ten day suspension shall commence on the effective date of this order and continue for a period of nine days thereafter.

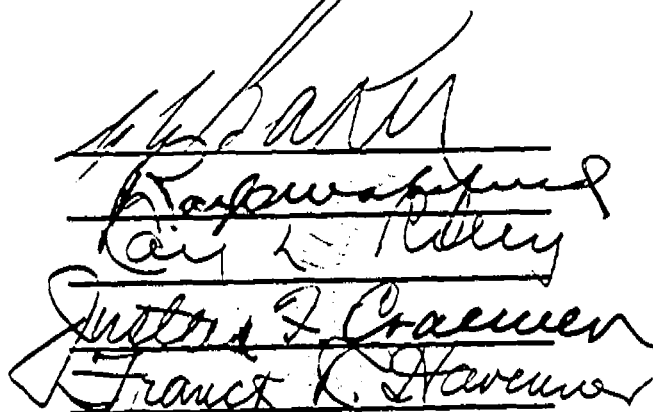
IT IS HEREBY FURTHER ORDERED that during said period of suspension said respondent, Hugh Perry, shall desist and abstain from engaging in the transportation of property as a carrier,

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.

IT IS HEREBY FURTHER ORDERED that the Secretary of the Commission shall cause a certified copy of this decision to be served upon said respondent.

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~~ ^{Los Angeles}, California, this 25th day of February, 1941.


The block contains three handwritten signatures, each written over a horizontal line. The signatures are: 1. A signature that appears to be 'W. B. ...' 2. A signature that appears to be 'Ray ...' 3. A signature that appears to be 'John J. ...' 4. A signature that appears to be 'Francis K. ...'

COMMISSIONERS