

Decision No. 34482

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 A. G.
FRENCH, an individual doing business
as A. G. FRENCH TRANSFER.

ORIGINAL

Case No. 4567

A. G. French, 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 A. G. French, an individual doing business as A. G. French Transfer, to determine whether or not said transportation services were performed at rates less than the minimum rates and charges prescribed by the Commission, and further to determine whether or not a proper freight bill was issued evidencing said transportation services.

Public hearing was held at Los Angeles on February 6, 1941, before Examiner Herbert Cameron, at which time respondent entered an appearance in propria persona, evidence was received, the matter was submitted, and the same is now ready for decision.

1 Transportation of uncrated used household goods and personal effects on or about August 16, 1940, from 1145 S. Wooster Street, Los Angeles, to 1324-25rd Street, Santa Monica, California, as a highway carrier in violation of Decision No. 32325, in Case No. 4086.

2 Decision No. 32325, Case No. 4086.

3 Decision No. 32325, Appendix "B" thereof.

The undisputed evidence developed facts during the progress of the hearing and may be summarized briefly as follows:

A. G. French, hereinafter referred to as respondent, was doing business as A. G. French Transfer and was engaged in the transportation of property for compensation by motor vehicle as a business on August 16, 1940, and for some time prior thereto, as a highway carrier as the term "highway carrier" is defined in Section 1(f) of the Highway Carriers' Act (Stats. 1935, Chap. 223, as amended), and was the holder of radial highway common carrier permit No. 19-4100. Respondent was served with the proper notice of the hearing establishing minimum rates, rules and regulations issued by the Railroad Commission in its Decision No. 32325 and was subsequently served with a certified copy of said decision.

Respondent was employed to transport certain household goods and personal effects, consisting of more than five pieces, on August 16, 1940. Respondent and a helper arrived in a truck having a loading capacity greater than 70 square feet at 1145 South Wooster Street, Los Angeles, California, and commenced loading said truck with uncrated household goods from said last mentioned address at 10:50 a.m. on said day. Said loading was completed at 12:10 p.m. Respondent immediately proceeded to 1324-23rd Street, Santa Monica. At 12:30 p.m. on said day respondent stopped said truck, at which time he and the helper had luncheon. At 12:55 p.m. respondent and helper again entered said truck and proceeded to said last mentioned address in Santa Monica, arriving at 1:00 p.m. Unloading then immediately commenced and was completed at 2:10 p.m. Upon the completion of the transportation services respondent was paid \$10.50 in cash, in full payment for said transportation services. A freight bill was issued by respondent evidencing said transportation services⁴

⁴ Exhibit No. 6.

but the same did not contain information showing the capacity of the truck nor the number of men employed in performing said transportation services. It is apparent that there was not sufficient information on said freight bill to calculate the proper rate.

The minimum rates and charges for the transportation services performed by respondent on August 16, 1940, must be computed on the basis of 1 hour and 20 minutes loading time, plus twice the driving time of 25 minutes or 50 minutes, plus the unloading time of 1 hour and 10 minutes, a total time of 3½ hours. The minimum rate established by the Commission pursuant to the aforementioned decision for said transportation services as above set out is \$3.50 per hour, a total of \$11.38. Respondent performed said services at an 88 cent undercharge.

It is also apparent that respondent violated the Commission's order by issuing a freight bill which was not in substantially the form prescribed by the Commission in its Decision No. 32325, Appendix "B" thereof.

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;
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 14 of the Highway Carriers' Act (Stats. 1935, Chap. 223, as amended), one who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine 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 A. G. FRENCH engaged in the transportation of property by motor vehicle for hire as a business over the public highways of the State of California as a highway carrier, as that term is defined in Section 1(f) of said Highway Carriers' Act, and in the course of said business transported uncrated household goods and personal effects, as more particularly set out in the foregoing opinion, at rates less than the minimum rates established therefor by said Commission.

It is hereby further found that respondent A. G. FRENCH issued a freight bill evidencing said transportation services which was not in substantially the form prescribed by the Commission in its Decision No. 32325, Appendix "B" thereof.

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 A. G. FRENCH shall immediately cease and desist from charging, demanding, collecting or receiving for transportation as a highway carrier, as the term "highway carrier" is defined in Section 1(f) of the Highway Carriers' Act (Stats. 1935, Chap. 223, as amended), of any of the property described in Decision No. 32325, in Case No. 4086, between any of the points therein specified at rates or charges less than the rates and charges prescribed for said transportation in said decision.

IT IS HEREBY FURTHER ORDERED that respondent A. G. FRENCH shall immediately cease and desist from receiving shipments for transportation as a highway carrier, as the term "highway carrier" is defined in Section 1(f) of the Highway Carriers' Act (Stats. 1935, Chap. 223, 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 radial highway common carrier permit No. 19-4100 issued to and held by said respondent A. G. FRENCH be and the same is hereby suspended for a period of 10 10 days; that said 10 10 day period of suspension shall commence on the 18th day of ~~May~~ *May*, 1941, and continue to the 27th day of ~~May~~ *May*, 1941, both dates inclusive, if service of this order shall have been made upon said respondent more than 20 0 days prior to the 18th day of ~~May~~ *May*, 1941, otherwise said 10 0 day suspension shall commence on the effective date of this order and continue for a period of 7 9 days thereafter. 109M
109M

IT IS HEREBY FURTHER ORDERED that during said period of suspension said respondent A. G. FRENCH shall desist and abstain from engaging in the transportation of property as a highway carrier, as defined in the Highway Carriers' Act (Stats. 1935, Chap. 223, 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 Railroad 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, California, this ^{3rd} day of
April, 1941.

[Handwritten signature]

Justin F. Casimir
Francis L. Havens

COMMISSIONERS