

Decision No. 43942

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation into the operations,)
rates, and practices of WILLIAM F.)
BOTTOMS and RALPH W. JOHNSON, doing) Case No. 5158
business as Richmond Transfer and)
Storage Co.)

Harold McCarthy, for Field Division
Ralph W. Johnson, in propria persona,
for respondent.

O P I N I O N

This proceeding was instituted, upon the Commission's own motion, by the service upon respondents of an order of investigation in order to determine whether (1) respondents have violated Sections 10, 12(a) and 13-5/8 of the Highway Carriers' Act; (2) respondents' operating authority or any part thereof should be cancelled, revoked or suspended; (3) respondents should be ordered to collect any or all undercharges for shipments transported by it; (4) respondents should be ordered to cease and desist from assessing and collecting less than minimum rates and from issuing shipping documents in form other than prescribed by the Commission. The order recites that respondents, holders of Radial Highway Common Carrier Permit No. 7-1974 and City Carrier Permit No. 7-1975, appear to have failed, during the period October 1, 1948 to October 31, 1948, and December 1, 1948 to December 31, 1948, to set forth on freight bills and shipping documents such information as is required by the Highway Carriers' Tariff No. 4. A public hearing was held in San Francisco, January 19, 1950, before Commissioner Potter and Examiner Gillard and the matter submitted for decision.

The testimony showed that the firm of which Ralph W. Johnson, a respondent, is a member has been primarily engaged since

1921 in the transportation of used household goods. Respondents operate one semi-truck, one pickup truck, one van and three semi-van trailers and regularly employ 40 persons, nine of whom make up the office staff. The testimony disclosed that respondents' business was equally divided between intercity and intracity transportation.

Respondents handled 65 intercity shipments during October and December 1948. Eighteen of these shipments are analyzed in a document introduced in evidence as Exhibit "1". Respondents stipulated that columns B through J of the exhibit correctly reflect the information contained on the freight bills. Exhibit "1" shows seven types of required data were omitted from the freight bills involved. Failure to properly describe the commodity occurred 18 times as did failure to obtain written confirmation of shipping instructions and rate quotations. Failure to name the consignee occurred twelve times, ten of which involved situations wherein consignor and consignee were the same or the goods were going into storage. Failure to (a) specify loading area of equipment used, (b) show point of destination, (c) state number of hours and (d) set forth agreed or declared value of property took place 9, 6, 5 and 2 times respectively. Exhibit "1" further shows improper assessment of rates happened once.

The testimony disclosed that representatives of the Field Division upon several occasions prior to the service of the investigatory order herein advised respondents as to preparation and use of confirmation of shipping instructions forms and indicated various deficiencies in his shipping documents. Information missing from the freight bills was supplied by respondents upon request of the Field Division representatives.

Ralph W. Johnson testified he had considered it unnecessary to insert the word "used" in describing household goods but he presently does. He stated that confirmation of shipping instructions

should have been obtained and that his firm now does. He further testified that when the consignor and consignee were identical the shipping documents either set forth the word "same" or completely omitted the name of the consignee. His testimony indicated that other violations were due in no small measure to normal errors committed by his employees despite his efforts to prevent them. Mr. Johnson testified that his firm's charges have been in excess of the minimum rates and that he is attempting to comply with rules and regulations and tariffs to the best of his ability.

The evidence shows and respondents concede that there were substantial deficiencies in the data supplied in the freight bills involved.

We find that respondents herein, during the calendar months of October and December 1948, failed to keep shipping documents as prescribed by the Commission in Highway Carriers' Tariff No. 4 as more particularly set forth in the order instituting investigation, and by so doing violated Sections 10 and 13-5/8 of the Highway Carriers' Act.

While respondents' infractions of the Commission's rules and regulations appear to be serious enough to justify a short suspension of their radial permit, we have concluded, on the basis of the entire record, that outright suspension should not be invoked at this time. Instead, respondents should be given an opportunity to demonstrate that they will comply with applicable statutes and with outstanding orders of the Commission. Accordingly, the order to follow, although imposing a five-day suspension of the radial permit, will also provide that such suspension be stayed for approximately eight months, unless the Commission, within that period, reopens the proceeding and, after notice to respondents and an opportunity to be heard, for good cause deems imposition of the suspension appropriate.

Otherwise, the proceeding will automatically terminate at the end of the eight-month period.

O R D E R

Public hearing having been held in the above entitled and numbered proceeding, the matter having been submitted for decision, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That Radial Highway Common Carrier Permit No. 7-1974, held by William F. Bottoms and Ralph W. Johnson, doing business as Richmond Transfer and Storage Company, respondents herein, be and it is hereby suspended for a period of five (5) consecutive days; provided, however, that such suspension shall not become effective unless and until, on or before December 15, 1950, the Commission shall have reopened this proceeding for receipt of further evidence, and thereafter, upon notice to respondents and an opportunity to be heard, shall otherwise order.

(2) The Secretary is hereby directed to cause personal service of a certified copy of this decision to be made upon respondents, and this decision shall become effective upon the twentieth (20th) day after the date of such service.

Dated at San Francisco, California, this 14th day of March, 1950.

R. Z. Dittman
Justus F. Chalver
Dean F. Smith
Harold A. Hule
Herbert J. Zeller
COMMISSIONERS