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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MRS. RICHARD BUNIEL,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 5615

Mrs. Richard Buniel, in propria persona.
Pillsbury, Madison and Sutro, and Lawler, Felix &
Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint herein, filed on January 28, 1955, alleges that Mrs. Richard Buniel, of 434 So. Hamilton Avenue, San Pedro, California, prior to approximately September 7, 1954, was a subscriber and user of telephone service furnished by defendant at that address under telephone number Terminal 3-8941; that on or about September 7, 1954, the telephone facilities of the complainant were disconnected by the defendant because a police officer from the San Pedro Police Station of the City of San Pedro, California (sic) ordered the telephone disconnected; that the complainant has made demand upon the defendant to restore the telephone service but it has refused to do so; and that the complainant has suffered and will suffer great hardship as a result

of being deprived of said telephone facilities; and that she did not use and does not intend to use said telephone facilities as an instrumentality to violate the law or in aiding and abetting such violation.

On February 25, 1955, the defendant filed its answer in which it alleges, among other things, that on or about September 1, 1955, the Police Department of the City of Los Angeles, California, disconnected and confiscated the telephone instrument used in furnishing telephone service by defendant to complainant under number Terminal 3-8941 at 434 South Hamilton Avenue, San Pedro, California, and that on or about September 7, 1954, defendant had reasonable cause to believe that the use made or to be made of said telephone service was prohibited by law and that service was being or was to be used as an instrumentality, directly or indirectly to violate or to aid and abet the violation of the law, and that defendant, having reasonable cause, discontinued said service and since said discontinuance has refused and now refuses to restore said service pursuant to this Commission's Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on March 29, 1955, before Examiner Kent C. Rogers. At the hearing evidence was presented and the matter was submitted. It is ready for decision.

The complainant testified that on the day the telephone was removed she was not home and knows nothing of the attendant circumstances. The telephone was in her home when she left in the morning and gone when she returned at night. She further testified

that she has a sister living with her who has cancer as a result of which the sister has hemorrhages and that it is imperative that she has a telephone available to make emergency calls to a doctor or hospital. She stated that she has never used nor permitted the telephone to be used for the purpose of violating the law or for aiding or abetting such violation. She further testified that at the time the telephone was removed she had a tenant who had been renting a room from her for about three days prior to the removal of the telephone. The tenant's name was Dave Brazell. He has not been in her home since the telephone was removed.

A police officer attached to the Harbor Vice Detail of the Los Angeles City Police Department testified that on September 1, 1954, he and two other officers, on a tip, went to complainant's home; that a man was working in the garden, but the officers entered the house; that they arrested therein a Mr. Douglas K. Brazell and confiscated some betting markers and scratch sheets; that they were in the house about ten minutes during which time the telephone rang several times; that they picked the telephone up each time, but the party on the other end of the line hung up; that on one occasion the officers let Brazell answer and the party on the other end asked if Brazell wanted a bail bondsman; that they removed the telephone; and that Brazell said the betting markers were in his handwriting and that the owners of the house (complainant and her husband) did not know that Brazell was using the telephone for bookmaking purposes. The officer stated that Brazell was held to answer for bookmaking at the preliminary hearing and believes he pleaded guilty subsequently.

The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone service inasmuch as it had received a letter from the Los Angeles Police Department, a copy of which was received in evidence as Exhibit No. 1. This letter requested disconnection of the complainant's telephone service.

Upon this record we find that the action of the telephone company was based upon reasonable cause, as such term is used in Decision No. 411415, supra. We further find that there is no evidence to indicate that the complainant herein engaged in or was directly connected with bookmaking activities. Therefore, the complainant now is entitled to a restoration of telephone service.

O R D E R

The complaint of Mrs. Richard Buniel against The Pacific Telephone and Telegraph Company, a corporation, having been filed, public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be granted, and that, upon the filing by complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's property at 434 South Hamilton Avenue, San Pedro, California, such installation being subject to all duly

authorized rules and regulations of the telephone company and to the existing applicable law.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 19th day of APRIL, 1955.

John E. Hatchell
President

Justus J. Calves

Ray G. Lutz

Maxwell D. Dole

Commissioners