

ORIGINAL

Decision No. 52347

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of A.T.L., Inc., a corporation, dba under the fictitious firm name of FURNITURE FAST FREIGHT, and FURNITURE FREIGHT FORWARDERS, for voluntary suspension of operating rights.

Application No. 36894

FURNITURE MANUFACTURERS ASSOCIATION OF SOUTHERN CALIFORNIA, a corporation,

Complainant,

vs.

Case No. 5639

A. T. L., Inc., a corporation, dba FURNITURE FAST FREIGHT, Defendant.

(See Appendix A for List of Appearances)

O P I N I O N

A. T. L., Inc., is a California corporation which does business under the fictitious name of Furniture Fast Freight. It is engaged in the transportation of property as a highway common carrier and an express corporation between the Los Angeles territory, on the one hand, and on the other, points north of Santa Barbara, the San Francisco territory, Sacramento and intermediate points. The commodities it transports are new, uncrated furniture and related items as more particularly described in Decision No. 47955, dated November 25, 1952, in Application No. 33825.

The Furniture Manufacturers Association of Southern California is a corporation conducting operations as a manufacturing association comprised of more than 175 members who manufacture furniture in the Southern California area.

Under date of March 28, 1955, the Furniture Manufacturers Association filed a complaint against A.T.L., Inc., alleging that the defendant, on and after March 21, 1955, had not accepted for

transportation any furniture or related items from the members of the association in violation of its duty as a highway common carrier and express corporation. Under date of April 23, 1955, the defendant filed an answer in which it denied the allegations in the complaint generally, but specifically set out information to the effect that it had not been operating as a result of the removal on March 21, 1955, by the sole stockholder of the corporation of all of the officers and directors. It was further alleged that the defendant had filed an application requesting a temporary suspension of its operating rights until the affairs of the corporation had been placed in such condition as to permit it to resume operations.

Application No. 36894 is the application referred to in the answer to the complaint and was filed April 15, 1955. It requests an order of this Commission suspending the operating rights of A.T.L., Inc., for a period of one year.

A public hearing was held in Los Angeles on November 29, 1955, before Examiner Grant E. Syphers, at which time evidence was adduced and the matter submitted. It is now ready for decision.

The position of the complainant Furniture Manufacturers Association of Southern California was that it did not request a revocation of the operating rights of A.T.L., Inc., but it did want to inform the Commission that the furniture manufacturers, since March 21, 1955, have been deprived of the only common carrier service available to certain points.

The position of A.T.L., Inc., as presented through the testimony of its sole stockholder, was that it had stopped operations on March 21, 1955, because the stockholder had removed the directors and officers of the corporation. It was testified that on August 12, 1954, the sole stockholder of the corporation had

entered into a conditional sales contract under the terms of which he agreed to sell the stock of the corporation to four designated buyers. This contract was received in evidence as Exhibit No. 1. According to the testimony the four buyers became the officers and directors of the corporation and conducted operations until March 21, 1955. On that date the stockholder removed them because he was of the opinion that they had ceased to function. It was further testified that on March 22, 1955, a new director of the corporation was appointed in order to preserve its assets and to straighten out its affairs. On October 15, 1955, service was resumed and the corporation now is operating as a common carrier under new officers and directors. It was the opinion of the stockholder that this operation was now on a sound basis and would continue. This opinion was based upon the stockholder's experience in the trucking business extending over a period of approximately nineteen years. No other testimony was presented.

After a review of all of the evidence in this record we find it to be a fact that the corporation did not operate between March 21, 1955, and November 15, 1955. Since no evidence was presented relative to the complaint of the Furniture Manufacturers Association of Southern California, that matter will be dismissed. As to the application for temporary suspension, the evidence now is clear that applicant is presently operating. The fact that applicant discontinued operations for the period indicated should be considered in the light of the further fact that during all but the first four weeks of that period it had pending an application for temporary suspension of operating rights. That application now has become moot, and, accordingly, will be denied.

The A.T.L., Inc., doing business as Furniture Fast Freight, is hereby placed upon notice that it is a common carrier and an express corporation, as those terms are defined in Sections 213 and 219 of the Public Utilities Code. As such it is subject to all of the requirements, obligations and duties imposed upon it by the law. These include the duty to conduct operations as a common carrier within the limits of its facilities and to serve all who may apply. It may not voluntarily suspend operations without authority from this Commission. In the future it will be expected to live up to its common carrier obligations.

O R D E R

Complaint as above entitled having been filed, and the complainant having filed an answer thereto, application as above entitled having been filed, the matters having been consolidated for hearing, public hearing having been held thereon and the Commission being fully advised in the premises,

IT IS ORDERED that:

1. The complaint of the Furniture Manufacturers Association of Southern California against the A.T.L., Inc., doing business as Furniture Fast Freight, be and it hereby is dismissed.

2. The application of A.T.L., Inc., doing business as Furniture Fast Freight, as above described, be and it hereby is dismissed.

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

Dated at San Francisco, California, this 12th day of December, 1955.

John L. Mitchell
President
Justin J. Casanova
Ronald L. Kuterstein
Maxwell J. Kelly
W. H. Hays
Commissioners

APPENDIX A

Eddy Feldman and Anthony V. Danna, for Furniture Manufacturers Association of Southern California, Complainant.

Herbert Cameron, for A.T.L., Inc., applicant in Application No. 36894 and defendant in Case No. 5639.

Melvin A. Pixley, for Pixley Transport, protestant in Application No. 36894.

Benn W. Porter, for Higgins Trucks, Inc.; R. C. Fels, for Crocker-Mohawk Lines, Inc., and Shippers Agency, Inc.; Turcotte & Goldsmith by F. W. Turcotte, for Lloyd Turner dba Blue Truck Lines, interested parties.