

Decision No. 55810

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KATHERINE DECKARD,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY,)
)
 Defendant.)

Case No. 5967

Katherine Deckard, in propria persona.

Lawler, Felix & Hall, by Gene Otsea, for the defendant.

Roger Arnebergh and John T. Neville, by John T. Neville, for the Los Angeles Police Department, intervener.

O P I N I O N

The complaint filed on August 19, 1957 alleges that the complainant was a customer and subscriber to the telephone services of the defendant at 3895 Arlington Avenue, Los Angeles, California, holding a telephone under the number Administer 3-0842 at all times mentioned herein prior to August 2, 1957; that on or about August 2, 1957, complainant received a written notice from the defendant advising her that defendant had been advised that the telephone facilities furnished by the defendant were being used as an instrumentality to aid and abet the violation of the law and notifying her that the telephone facilities had been disconnected; that complainant's telephone facilities were disconnected and defendant has refused to

restore said telephone services; that complainant is informed and alleges that on or about July 26, 1957, Ruby Lewis, a distant relative who was employed to baby sit for complainant, was discovered by the Los Angeles Police Department in the home of complainant using the telephone for placing bets on horse races; that complainant did not and no other person gave Ruby Lewis permission to use complainant's telephone on July 26, 1957; and that complainant had no knowledge of any criminal record or that Ruby Lewis was engaged in any illegal activity prior to July 31, 1957. Complainant prays that her telephone service be restored.

On August 27, 1957, by Decision No. 55493 in Case No. 5967, this Commission issued an order directing the telephone company to restore telephone service to complainant pending a hearing on the matter.

On September 5, 1957, the telephone company filed an answer the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), defendant on or about August 2, 1957, had reasonable cause to believe that the telephone service furnished by defendant under number AXminister 3-0842 at 3895 Arlington Avenue, Los Angeles, California, 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.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on October 14, 1957. Evidence was presented and the matter was submitted.

The complainant testified that she resides at 3895 Arlington Avenue, Los Angeles, that said address is her home and she has resided

there with her two children, ages 5 and 6, since 1953; that about three weeks prior to August 5, 1957, she commenced her vacation but stayed home the first week; that at the time she had a roomer living in the house with her; that on or about the commencement of the last week in July, 1957, she went to San Diego, leaving the house in the care of said roomer; that on or about the second or third day of August, 1957, she was informed by telephone by her roomer that her telephone facilities had been removed; and that when she arrived home she found the doors broken and the telephone removed. The complainant further testified that during working hours she had been in the habit of having a distant relative, Ruby Lewis, care for her children until she returned from work; that she had given said Ruby Lewis permission to come into the house in her absence and that she did not know that Mrs. Lewis was a bookmaker.

A police officer attached to the Vice Detail of the Los Angeles Police Department testified that on July 26, 1957, he went to the vicinity of the complainant's premises with four other officers, having received information that there was bookmaking going on at complainant's telephone number; that he went one block from complainant's home to a public telephone and called the complainant's phone number; that a female voice answered the telephone and he gave the female who answered the phone four bets on horse races being run that day at Del Mar; that he then went to the complainant's house and the other officers had entered the house; that Ruby Lewis was the only person in the house; that he had a conversation with Ruby Lewis and asked her how long she had been taking bets at that address and she said approximately 9 days; and that she received \$55 per week

and that some man called every 10 or 15 minutes and she forwarded the bets to him. The witness further stated that he was at complainant's home for about one-half hour and during that time the telephone rang every two to three minutes; that he personally answered the phone 5 times and that he was given horse race bets on each occasion. He further stated that Ruby Lewis was arrested for bookmaking and held to answer at the preliminary hearing; that in the house at the time of the arrest, there was a plastic tray, a sponge, a wet cloth, racing forms, scratch sheets for that day and one betting marker.

Exhibit No. 1 is a copy of a letter from the Police Department of the City of Los Angeles to the telephone company, advising the telephone company that complainant's telephone under number AXminister 3-0842, at Arlington Avenue, was on July 26, 1957, being used for disseminating horse racing information used in connection with bookmaking; advising that the telephone had been removed; and requesting that the defendant disconnect the complainant's telephone. An employee of the telephone company testified that this letter was received on August 1, 1957, and a central office disconnection was effected pursuant to that request. The position of the telephone company was that it had acted with reasonable cause as that term is used in Decision No. 41415, referred to supra, in disconnecting the telephone services inasmuch as it had received the letter designated as Exhibit No. 1.

In consideration of this record we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, referred to supra. We further

find that there is no evidence that complainant was engaged in, was directly connected with, or permitted the telephone facilities to be used for bookmaking activities. Therefore, the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of Katherine Deckard against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a 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 order of the Commission in Decision No. 55493, dated August 27, 1957, temporarily restoring telephone service to the complainant, be made permanent, such restoration 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 November, 1957.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners