

ORIGINAL

Decision No. 55092

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MONICA J. KISSEL,

Plaintiff,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5993

Murray M Chotiner, attorney, for plaintiff.
Lawler, Felix & Hall by Gene Otesea, for defendant.
Robert C. Lynch, Deputy County Counsel for the
Sheriff's Department, Los Angeles County,
intervenor.

O P I N I O N

By the complaint herein, filed on October 1, 1957, the complainant Monica J. Kissel, alleges that she resides at 110 North Burris Avenue, Apartment F, Compton, California; that prior to August 15, 1957, she was a subscriber and user of telephone services furnished by defendant under telephone number NEwmark 2-9918; that on or about August 15, 1957, telephone facilities of complainant were disconnected by the defendant; that complainant is informed and believes that the reason telephone facilities were disconnected by the defendant was that the complainant was arrested on a charge of failure to register and to pay the occupational tax as required by Title 26, Sections 4411 and 4412 of the United States Code; in violation of Title 26, Section 7262, U. S. Code; that the telephone facilities were not used by the complainant nor by anyone with her knowledge, permission or consent for any illegal activity of any nature or kind whatsoever; that complainant has suffered and will continue to suffer irreparable injury to her reputation and

great hardship as a result of being deprived of said telephone facilities; and that complainant did not use and does not intend to use the telephone facilities as an instrumentality to violate or to aid and abet the violation of the law.

On November 4, 1957, the telephone company filed an answer, the principal allegation of which was that on or about August 20, 1957, it had reasonable cause to believe that the telephone service furnished to complainant under number NEwmark 2-9918 at 110 North Burris Avenue, Apartment F, Compton, 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 and that having such reasonable cause the defendant was required to disconnect the 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 before Examiner Kent C. Rogers on November 18, 1957, and the matter was submitted.

The complainant testified that she has resided at 110 North Burris Avenue, Apartment F, Compton, California, for over one year and that she had a telephone at that address during that time furnished by the defendant; that she is a traffic manager for the California Malting Company; that a telephone is necessary in her business, and that the telephone was used in connection with her business; that in addition she has an aged mother who is in poor health and with whom she must keep in contact; and that she has never used the telephone for bookmaking or other illegal activities nor does she permit any other person to use the telephone for illegal purposes.

The complainant's immediate supervisor in the California Malting Company testified that she has known the complainant for several years; that the complainant has been employed by the Malting

Company since 1951; that the complainant handles the carloading traffic for the company and that it is necessary that the complainant have a telephone in her home.

Exhibit No. 2 herein is a copy of a letter from the Sheriff of Los Angeles County to the telephone company advising that on August 15, 1957, the complainant's telephone was being used for disseminating horse racing information in connection with bookmaking, advising that the telephone had been confiscated by a representative of the Intelligence Division of the U. S. Treasury Department, and requesting that the telephone service be disconnected.

Exhibit No. 3 is a letter from the Chief of the Intelligence Division of the U. S. Treasury Department advising the telephone company that on August 15, 1957, the complainant's telephone was being used for disseminating horse racing information in connection with bookmaking in violation of certain sections of the Internal Revenue Code, that the telephone had been removed, and requesting that the service be disconnected. It was stipulated by the parties that pursuant to said letters the telephone service was disconnected on or about August 20, 1957. The position of the telephone company was that it had acted with reasonable cause as that term is used in Decision No. 41415, supra, in disconnecting the telephone service inasmuch as it had received the letters designated as Exhibits Nos. 2 and 3.

After consideration of the record we find that the action of the telephone company was based upon reasonable cause as that term is used in Decision No. 41415, supra. We further find that there is no evidence to indicate that the complainant herein engaged in or was directly connected with illegal activities, or that the telephone was used for such purposes. Therefore the complainant is now entitled to restoration of telephone service.

ORDER

The complaint of Monica J. Kissel vs. The Pacific Telephone and Telegraph Company 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 complainant's request for restoration of telephone service be granted and that upon the filing by the complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence, Apartment F, 110 North Burriss Avenue, Compton, 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 16th day of December, 1957.

[Signature]
 President

[Signature]

[Signature]

[Signature]

[Signature]
 Commissioners