

ORIGINAL

Decision No. 56249

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LOUIS KLEIN,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELE-
GRAPH COMPANY,

Defendant.

Case No. 6013

Louis Klein in propria persona.

Lawler, Felix & Hall, by Thomas E. Workman, Jr.,
for the defendant.

Roger Arnebergh, City Attorney, by Patrick Coleman,
Deputy City Attorney for the Los Angeles
Police Department, intervener.

O P I N I O N

In the complaint herein, filed on November 20, 1957, Louis Klein alleges that prior to July 22, 1957, he was the owner of a grocery store located at 2526 South Grand Avenue, Los Angeles, California; that there was therein a semipublic pay telephone installed in the name of Miss Ida Klein; that on or about July 22, 1957, the defendant caused said telephone to be disconnected for the alleged reason that it had been used as an instrumentality to violate or to aid and abet the violation of the law; that the telephone service is necessary to complainant in the pursuance of his grocery business; and that at no time has complainant violated or aided or abetted the violation of the law.

On December 5, 1957, the defendant filed an answer to the complaint wherein, inter alia, it alleges that prior to July 26, 1957, Ida Klein was a subscriber of the defendant to the telephone service at 2526 South Grand Avenue, Los Angeles, California; and that on or about July 18, 1957, it had reasonable cause to believe that the telephone service furnished to Ida Klein at 2526 South Grand 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, and that having such reasonable cause, the defendant was required to, and on or about July 26, 1957, did, 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 January 22, 1958, and the matter was submitted.

The complainant testified that Ida Klein is his sister; that for many years he had been running the market at 2526 South Grand Avenue, Los Angeles, California; that he is the actual subscriber to the telephone installed at said premises and pays all the bills; that the telephone in question was a semipublic pay station with two nondial extensions therefrom; that the premises contain a grocery department, a meat market and a vegetable market; that the semipublic telephone was on a post in the store with one nondial extension to the grocery and meat departments which are operated by the complainant, and one extension to the vegetable department which is operated by a man by the name of Anton Michael; that on or about July 22, 1957, he was informed by

a telephone company employee that the telephone was to be removed because of illegal use and at that time the dial telephone and one extension were removed; that he has been in business in the locality for 29 years and needs a telephone; that there are other pay telephones in the vicinity; and that he desires that a private business telephone, for which he will be the subscriber, be installed on the premises.

On cross-examination by the deputy city attorney, the complainant testified that Anton Michael has conducted the vegetable department in his store for seven years and that there had been no conduct which he had observed which indicated to him that Anton Michael played the horses.

A police officer connected with the Vice Detail testified that on July 5, 1957, he went to complainant's store at 2526 South Grand Avenue; that at that time Anton Michael was using the public pay telephone, and prior thereto the witness had looked in the front and observed Anton Michael looking at scratch sheets; that on said date he heard Anton Michael place a horse racing bet over the public pay telephone; that thereafter the witness arrested Anton Michael; that Anton Michael had betting markers in his possession, and that he asked Anton Michael if these articles were records of bets he was giving over the telephone; that Anton Michael said that these markers were records of bets both for himself and other persons; that Anton Michael told the witness that he was not a bookmaker, but that he played the horses himself and took wagers from the people next door; that Anton Michael went to the produce department, which he operated, and took a National Daily Reporter

scratch sheet showing the races being run that day; that thereupon Anton Michael was arrested for bookmaking and was held to answer at a preliminary hearing on that charge.

Exhibit No. 1 is a copy of a letter dated July 15, 1957, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that complainant's semipublic pay telephone was being used for receiving and forwarding bets. An employee of the telephone company testified that Exhibit No. 1 was received by the telephone company on July 18, 1957, and that thereafter, on July 26, 1957, said telephone facilities, consisting of a pay coin telephone with two extensions, were removed from the premises. He further testified that the telephone service was subscribed for by Ida Klein.

The complainant stated that there are other public telephone stations in the vicinity, and in order to protect the telephone service in the future he desires that he be granted a private individual telephone for service to his premises, not including the vegetable department.

After full 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. The evidence is conclusive that complainant's telephone was used for bookmaking purposes. However, the record in this proceeding shows that the complainant herein was not aware that the telephone was being used for such illegal activities, and that a telephone is necessary in the conduct of complainant's business. Complainant is, therefore, entitled to telephone service.

O R D E R

The complaint of Louis Klein 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 on the evidence of record,

IT IS ORDERED that complainant's request for 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 such telephone service at the complainant's place of business at 2526 South Grand Avenue, Los Angeles, 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 18th day of February, 1958.

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