

ORIGINAL

Decision No. 63435

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ANTHONY L. DAWIDOWICZ,

Complainant,

vs.

Case No. 7215

GENERAL TELEPHONE COMPANY
of California, a corporation,

Defendant.

Anthony L. Dawidowicz, in propria persona.
A. M. Hart and Donald J. Duckett, by
Donald J. Duckett, for defendant.

O P I N I O N

By the complaint herein, filed October 26, 1961, Anthony L. Dawidowicz requests an order of this Commission that the defendant, General Telephone Company of California, a corporation, be required to reinstall telephone service at 1536 Sixth Street, Apartment 9, Santa Monica, California.

By Decision No. 62789, dated November 14, 1961, the Commission ordered that the defendant restore telephone service to the complainant pending further order.

On November 22, 1961, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), on or about September 18, 1961, had reasonable cause to believe that the telephone service furnished

to Anthony L. Dawidowicz under number EXbrook 3-7458 at 1536 Sixth Street, Apartment 9, Santa Monica, 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.

A public hearing was held in Los Angeles on February 7, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Exhibit No. 1, which is set forth in the answer as Exhibit A, is a copy of a letter dated September 18, 1961, from the Chief of Police of the City of Santa Monica, California, to the defendant advising the defendant that the telephone furnished to Joseph E. Hodgen under number EX 3-7458 was being used for the purpose of disseminating horse racing information, which was being used in connection with bookmaking in violation of Section 337a of the Penal Code, and requesting that the telephone company disconnect the service. The position of the telephone company was that it had acted with reasonable cause as that term is used in Decision No. 41415 in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

Complainant testified that he is in need of a telephone to keep in touch with the union and to secure work as a meat cutter. He has not used the phone for any unlawful purposes and does not intend to do so in the future, and he had no knowledge of the illegal activities of Joseph E. Hodgen, who was arrested in his apartment.

There was no appearance on behalf of, or testimony by, any law enforcement agency.

After full consideration of this record, we find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415; that the evidence fails to show that the complainant's telephone was used for any illegal purpose; and that the complainant is entitled to restoration of telephone service.


O R D E R

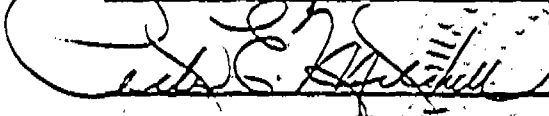
The complaint of Anthony L. Dawidowicz against General Telephone Company of California, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence herein,

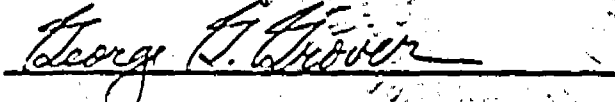
IT IS ORDERED that the order of the Commission in Decision No. 62789, dated November 14, 1961, in Case No. 7215, temporarily restoring telephone service to the complainant, be made permanent, such restoration being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California, this 20th day of MARCH, 1962.



President


George T. Grover


Frederick B. Holmberg

Commissioners