

ORIGINAL

66743

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CLIFTON DAVIS,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Case No. 7689

Joseph T. Forno, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Herbert Blitz,
for the Police Department of the City of
Los Angeles, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 12918 Belhaven Avenue, Los Angeles 59, California. Interim restoration was ordered pending further order (Decision No. 65921).

Defendant's answer alleges that on or about August 2, 1963, it had reasonable cause to believe that service to Clifton D. Davis, under number 636-4511 was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law, and therefore defendant was required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 853.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on December 13, 1963.

By letter of July 31, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number NE 6-4511 was being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit 1).

Complainant testified that he is assistant manager for a manufacturing plant and a lodge secretary; that in both of these capacities he has urgent need for telephone service; that he was out of town and away from his home when his telephone service was disconnected; that he does not play the horses and has no knowledge regarding same; that he has taken steps, insofar as possible, to prevent any unlawful use of his telephone; and that he did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant, but no testimony was offered on behalf of any law enforcement agency.

We find that defendant's action was based upon reasonable cause, and the evidence fails to show that the telephone was used for any illegal purpose.

Complainant is entitled to restoration of service.

ORDER

IT IS ORDERED that Decision No. 65921, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

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

Dated at San Francisco, California, this 4th day of February, 1964.

William W. Bennett
President

George H. Trover

Fredrick B. Halaluff

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.