

ORIGINAL

Decision No. 67054

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MACK WEINER,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case No. 7813

Mack Weiner, in propria persona.
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, intervenor.

O P I N I O N

Complainant seeks restoration of telephone service at 471-1/2 South Fairfax Avenue, Los Angeles 2, California. Interim restoration was ordered pending further order (Decision No. 66651, dated January 21, 1964).

Defendant's answer alleges that on or about January 3, 1964, it had reasonable cause to believe that service to Mack Weiner, under number 939-1560, 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 February 28, 1964.

By letter of December 31, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number WE. 9-1560 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 manager of a restaurant and needs 24-hour telephone service in the conduct of the business and also has duties for a charitable organization. Complainant testified that he loaned the keys to his apartment to a friend to look at television occasionally, and that he learned later that his telephone was taken out while this friend was in his apartment with duplicate keys he had made without permission. Complainant further testified that he has no knowledge of illegal activity in the use of his telephone and that he has changed the lock on his apartment door and does not allow others to use it any more.

Complainant further testified that he has great need for telephone service, and 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. 66651, dated January 21, 1964, 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 17th day of APRIL, 1964.

Holloman W. Bennett
President

W. J. [Signature]

George T. Tower

Frederick B. Halaloff
Commissioners