

ORIGINALDecision No. 68281

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

NORWALK DENTAL LABORATORY
E. R. BLANCHARD, MGR.

Complainant,

vs.

GENERAL TELEPHONE COMPANY

Defendant.

Case No. 8042

ORDER OF DISMISSAL

The complaint herein alleges complainant's work "depends wholly on phone calls. We were actually put out of business when they shut the phone off. * * * A form of blackmail was used. Two girls called the same day. There are ten other ways to collect a bill besides stopping the service of a professional phone. * * * The phone company has no right to shut off a phone in my line of work. * * * This is a defamation of self and my business, as well. * * * This is a criminal case, since it is an offence against public welfare. * * * complainant requests an order of settlement for interference, and loss of business since July 24th, 1964. --- to the amount of \$500.00 per week."

Responsive to preliminary mailing of a copy of the complaint, defendant advised that service was restored on October 20, 1964 after complainant made the requisite deposit required under defendant's tariff. Defendant suggested the complaint was moot and should be dismissed. A Commission letter of October 26, 1964 asked complainant if he requested dismissal. No reply has been received.

Defendant has filed a motion to dismiss, motion to strike, and answer. The answer alleges that service was temporarily disconnected July 31, 1964 for nonpayment of a bill due June 16, 1964, and was permanently disconnected August 14, 1964 for nonpayment of that bill and additional charges incurred subsequently; that on October 5, 1964 said bill and subsequent charges were paid; that from October 5 to October 16 defendant attempted to contact complainant, secure an advance payment, and arrange to re-establish service; and that such arrangements were made on October 16, 1964 and service was restored October 20, 1964.

In seeking dismissal defendant urges that the complaint is moot in that service has been restored; and that the complaint seeks an award of damages allegedly incurred as a result of claimed negligence or breach of contract, matters exclusively within the jurisdiction of a civil court of law, citing Warren v. Pacific Telephone, 54 Cal.P.U.C. 704.

Case No. 8042 is hereby dismissed for failure to state a cause of action within the jurisdiction of the Commission.

Dated at San Francisco, California, this 31st day of NOVEMBER, 1964.

Fredrick B. Heilbrunn
President

Carl E. Mitchell

Walter H. King

George E. Grover

William A. Bunker
Commissioners