

ORIGINAL

Decision No. 68447

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAM A. BROWN,
Complainant,

-vs-

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
Corporation,

Defendant.

Case No. 7942

Sam A. Brown, in propria persona.
Lawler, Felix & Hall, by Robert C. Coppo,
for defendant.

Roger Arnebergh, City Attorney, by
James H. Kline, 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 317 West 71st Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 67594, dated July 28, 1964).

Defendant's answer alleges that on or about July 2, 1964, it had reasonable cause to believe that service to Sam Brown under number 752-0200 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 September 21, 1964.

By letter of June 30, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 752-0200 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 had a back injury; that he is now getting part-time work painting houses and gardening; that he would not be able to get work without a telephone; and that he has to contribute to the support of his five children.

Complainant further testified that he was arrested and released; that no charges were filed against him; that he is going to school and needs a telephone to seek work; that the National Daily Reporter which the officers took was not a recent issue; that a brown tablet taken by police officers contained a list of telephone numbers used by him for the purpose of seeking employment; and that while the officers were on his premises over thirty minutes his telephone did not ring.

A police officer testified that when he entered complainant's premises, complainant was seated at a table with a National Daily Reporter; that he threw a brown tablet on the floor; that the tablet contained penciled notations which, in his opinion, were bets correlated to racing that day; and that complainant admitted to him that the tablet was his. The officer further testified that in his opinion the premises were used as a "phone spot" and "cash room" for the purpose of receiving bets on horse races, and that four people were on the premises when he entered.

Complainant further testified that he has great need for telephone service and that he did not and will not use the telephone for any unlawful purpose.

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.

O R D E R

IT IS ORDERED that Decision No. 67594, dated July 28, 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 12th day of JANUARY, 1965.

Frederick B. Halchoff
President

George E. Brewer

William W. Bennett
Commissioners