

ORIGINAL

Decision No. 69666

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES E. KIMBALL, KENNETH KIMBALL,
dba TALLY HO TAVERN,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 8161

James E. Kimball, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Michael T. Sauer,
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 10855 Venice Boulevard, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 68948, dated April 27, 1965).

Defendant's answer alleges that on or about March 16, 1965, it had reasonable cause to believe that service to James Kimball, under number 836-9801, 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. 353.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on July 29, 1965.

By letter of March 12, 1965, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 836-9801 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 James E. Kimball testified that the telephone is listed in his name; that he is a plumber and is one of the owners of the Tally Ho Tavern and uses said telephone for emergency calls in his occupation of plumber, and telephone service is necessary in the operation of said businesses. Complainant further testified that there are no pending charges against the complainants for any unlawful activities.

Complainant further testified that he has no knowledge of any illegal use of this telephone, 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. 68948, dated April 27, 1965, temporarily restoring service to complainant, James E. Kimball, 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 Los Angeles, California, this 14th day of SEPTEMBER, 1965.

Fredrick B. Hallock
President

James E. Kimball

George E. Brown

W. J. ...

Commissioners

*I dissent. See my
views in C. D. 84, ac. 69510.
Orlowski in Bureau*