

ORIGINAL

Decision No. 71167

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RAY NAKAMURA,

Complainant,

vs.

PACIFIC TELEPHONE, a
Corporation,

Defendant.

Case No. 8394

Max Solomon, for complainant.
Lawler, Felix & Hall, by Richard L.
Fruin, Jr., for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 3020 West Council, Los Angeles 26, California. Interim restoration was ordered pending further order (Decision No. 70608, dated April 26, 1966).

Defendant's answer alleges that on or about April 8, 1966, it had reasonable cause to believe that service to R. Nakamura, under number 387-2748, 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 July 14, 1966.

By letter of April 6, 1966, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 387-2748 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 employed as a retail clerk; he has a wife and a child nine years old; telephone service is necessary for the welfare of his family; his wife has been ill and requires telephone service to call her physician at any hour, and he did not and will not use the telephone for any unlawful purpose.

There was no appearance by or testimony from 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.

O R D E R

IT IS ORDERED that Decision No. 70608, dated April 26, 1966, 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 23rd day of AUGUST, 1966.

Arthur E. Mitchell
President
George T. Hoover
Augusta

Commissioners

Commissioner Frederick B. Holboff, being necessarily absent, did not participate in the disposition of this proceeding.