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Decision No. ~~79975~~

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

STEVE ETICK AND ASSOCIATES,
Complainant,

vs.

PACIFIC TELEPHONE COMPANY,
Defendant.

Case No. 9253
(Filed July 29, 1971)

Stephen Etick, for Steve Etick
& Associates, complainant.
Richard Siegfried, Attorney at Law,
for defendant.

O P I N I O N

Complainant, Steve Etick & Associates, who signs the complaint as an individual, Steve Etick, seeks an award of \$600.00 damages against defendant for claimed loss of sales in his business due to interruptions in service while changes were being made in his business location and telephone service.

Public hearing was held before Examiner DeWolf on February 24, 1972 in Los Angeles and the matter was submitted on the same date.

Complainant alleged and testified substantially as follows:

On February 19, 1971, he called the Pacific Telephone Company to make installation of his new telephone at 7053 Vineland Avenue, North Hollywood, California. On February 22, 1971, defendant's employee appeared at 4717 Laurel Canyon Boulevard, North Hollywood, to disconnect his telephone. He noticed the telephone did not ring all day so he called his own number and found

there was a recording saying that his telephone had been disconnected. All of this time he was able to make outgoing calls. On Tuesday, the telephone worked for a little while and then again it was disconnected for the better part of the day. On Wednesday and Thursday, the service was off and on, on different intervals. On Friday, defendant's employee appeared at his new warehouse and did not complete the installation until late Monday afternoon.

The defendant did not give the referral from the old number to the new number as promised. This went on for three or four weeks after installation of the new telephone. He feels he has lost quite a bit of dignity, time, and money by not having the convenience of a service that cost him over \$200.00 a month. He also claims that Bonanza Home Centers, a division of Daylin, Incorporated, could not reach him and bought a paint roller and tray set from his competitor. He has a contract with Daylin that all of their stores must buy from him unless he is out of an item.

He feels due to the size of his telephone bills, and on account of business interruption for an off and on period of one month, that defendant should reimburse him in the sum of \$600.00.

One witness testified for the defendant and admitted that there were interruptions in the complainant's telephone service when it was changed to a new business location. The witness testified to the chronology of events. Two exhibits were received in evidence to show the interruptions in service which appear from defendant's records. The witness testified that defendant reviewed the complainant's telephone bills for the period and made five separate adjustments in billing the various services of complainant and gave complainant credits on his telephone bill in the total amount of \$87.28 for loss of use of the service during the change over.

Findings of Fact

1. The complainant has not submitted any proof in support of the alleged losses suffered while his telephone service was interrupted other than his own self-serving statement.

2. An unsupported statement of a claim of loss or damage cannot support an award for refund of telephone charges.

3. Defendant's records show interruptions for which it has given credit to the complainant in the sum of \$87.28.

4. The Commission is without jurisdiction to award damages as prayed for in the complaint. (Schumacher v. Pacific Telephone, 64 Cal. P.U.C. 295 and cases there cited.)

The Commission concludes that the complaint should be denied and the credits to the complainant's bill in the amount of \$87.28 should be approved.

O R D E R

IT IS ORDERED that this complaint in Case No. 9253 hereby is denied and the credits to complainant's telephone bill in the amount of \$87.28 are hereby approved.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25th day of APRIL, 1972.

Chairman

William Symons, Jr.

J. P. Vukasin, Jr.

Verna L. Sturgeon

[Signature]

Commissioners