

Decision 88 03 015 MAR 09 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mayrdawna Davis, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 Pacific Bell, (U 1001 C) )  
 )  
 Defendant. )

Case 87-06-031  
(Filed June 19, 1987)

Mayrdawna Davis, for herself, complainant.  
John Rogy, Attorney at Law, for Pacific Bell,  
 defendant.

OPINION

Complainant seeks punitive and compensatory damages from defendant in the amount of \$10,000,000,000 from defendant for alleged invasion of privacy and violation of the privacy act.

Public hearing was held before Administrative Law Judge (ALJ) O'Leary at San Francisco on December 3, 1987. The matter was submitted with the filing of the transcript on December 16, 1987.

Complainant's Evidence

Complainant testified that on March 3, 1987 she requested that her telephone (415) 829-3886 be disconnected and that calls be referred to (415) 521-7270. Defendant immediately disconnected the service and referred calls as requested.

On May 28, 1987 complainant called the disconnected number to find that calls were being referred to (415) 449-0163 rather than (415) 521-7270. Complainant then contacted defendant to inquire why the referral had been changed. She was informed, by the operator, that she had requested the change. Complainant informed the operator that she did not request the change.

Complainant asked various questions of the operator as to verification procedures to ascertain that the party requesting the change is actually the party authorized to make the request. She was informed by the operator that there is no such procedure. The operator offered to refer the number to (415) 521-7270. On May 29, 1987 complainant again called the disconnected number and calls were still being referred to (415) 449-0163. On May 31, she again called the disconnected number and was advised, by a recording, that the number has been disconnected and there is no new number. That recording remained in place until approximately June 15, 1987 even though complainant requested and defendant promised to correct it by referring calls to the (415) 521-7270 number.

On or about June 15, 1987 complainant found an apartment in Richmond and requested that calls to the disconnected number be referred to the apartment in Richmond. At that point in time defendant assigned (415) 222-1536 to the apartment in Richmond. Complainant had the phone service installed prior to moving into the apartment. Subsequent to having the phone service installed she was informed that she had been turned down for the apartment. After learning that she could not have the apartment, she requested that calls to (415) 829-3886 be referred to the Christian Help Center in Vallejo, phone number (707) 644-9354. On or about June 24, 1987 complainant moved into an apartment in Vallejo and received telephone service the day she moved in. Simultaneous with the service to the apartment in Vallejo, phone calls to the original disconnected number were referred to the apartment in Vallejo, (707) 644-9354.

Complainant seeks the damages because the referral change to (415) 449-7270 was not ordered by her and when defendant accepted the change order no attempt was made to verify that complainant was the person placing the change order.

In her closing statement, complainant cites sections 1798.3, 1798.20, 1798.21, 1798.22, 1798.25, and 1798.30 of the Civil Code and implies that defendant has violated those sections.

Defendant's Evidence

Evidence on behalf of defendant was presented through testimony of and exhibits sponsored by Mr. Thomas Weber (Weber), the marketing manager for all East Bay residents. Exhibit 3 prepared by Weber entitled "Pacific's Chronology of Pertinent Events, Davis v Pacific Bell" sets forth the following:

- 2/26/87 Ms. Davis stated that she would be placing an order to disconnect her service; but she was unsure of where she would be staying and did not know to what number she wanted her calls referred.
- 3/3/87 Ms. Davis advised two service representatives that she wanted to disconnect her service and have her calls referred to (415) 449-0163. This number belongs to Shepherds Gate.
- 3/13/87 Ms. Davis called and requested the referral be changed to (415) 447-7827. This number belongs to Alice E. Peck.
- 3/26/87 Ms. Davis stated that she was living in a shelter and might want to change her referral, but she was not sure of the new number.
- 4/6/87 Ms. Davis called and placed an order to change her referral to (415) 521-7270. This number belongs to United Filipinos of Alameda.
- 5/27/87 Ms. Davis called and stated that there was a problem with her referral. The service representative reviewed the numerous referral changes with Ms. Davis, who became upset and used extremely abusive language. Ms. Davis said that her referral was to have gone to (415) 521-7270 all along, and that she had never asked for it to go

to any other number. Due to the customer's unusual behavior and her allegation that unauthorized orders were being placed, the service representative called (415) 521-7270 to obtain permission to refer calls to that number. The party who answered at that number said they did not know Ms. Davis, and did not want her calls referred to that number. Ms. Davis was advised of this and was offered the opportunity to have her calls referred to an alternative number. Pacific also established a confidential password for Ms. Davis to prevent any unauthorized referral orders. Ms. Davis was not satisfied with this and hung up.

- 6/3/87 A complaint was received from the Regulatory Department regarding the problems this customer was having with her referral. A message was left for Ms. Davis at the number she provided to the Regulatory Department.
- 6/8/87 Ms. Davis called the Berkeley office to order new service in Richmond. Service was installed on 6/10/87.
- 6/9/87 Ms. Davis asked the Fremont office to change her referral to her new number, (415) 222-1536.
- 6/15/87 Ms. Davis called the Berkeley office and stated that she never moved into the Richmond address. All charges relating to this service were subsequently adjusted. An order was also taken to change her referral to (707) 553-8192. This number belongs to the Christian Help Center in Vallejo.
- 6/19/87 Ms. Davis filed her Complaint with the CPUC.

- 6/22/87 Ms. Davis called the Fairfield office and ordered new service in Vallejo. This service was installed on 6/24/87. The Fremont office also issued an order to change her referral to this new number (707) 644-9354.
- 8/3/87 The referral to Ms. Davis' new number in Vallejo was still working.
- 10/12/87 Telephone number (415) 829-3886 was reassigned.

Discussion

This Commission can award reparations should a utility not provide the service paid for by the customer. For example, had defendant not provided the referral service to complainant, complainant would be entitled to reparations; however, such reparations would be limited to the amount paid for the service. There has been no evidence presented here that shows that defendant did not comply with its tariff rules.

This Commission is not empowered to award the type damages sought in this proceeding. However, complainant is free to pursue the issue in Civil Court.

Findings of Fact

1. Complainant's phone service was disconnected on or about March 3, 1987.
2. Phone calls to the disconnected number were referred to another number pursuant to complainant's request.
3. Complainant incurred some difficulty in having the phone calls referred to the proper number.
4. There is no evidence that defendant violated any of its tariff rules.
5. Complainant seeks damages.

Conclusions of Law

1. This Commission is not empowered to award the damages sought by complainant.
2. The relief sought in the complaint should be denied.

ORDER


IT IS ORDERED that the relief requested in the complaint is denied.

This order becomes effective 30 days from today.

Dated MAR 09 1988, at San Francisco, California.

STANLEY W. HULETT  
President  
DONALD VIAL  
FREDERICK R. DUDA  
C. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Victor Wutzor, Executive Director

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