

ORIGINAL

Decision No. 87168

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROSARIO RICHARDSON,

Complainant,

v

PACIFIC TELEPHONE COMPANY,

Defendant.

Case No. 10113
(Filed June 7, 1976)

Rosario Richardson, for herself,
complainant.

Duane G. Henry, Attorney at Law, for The
Pacific Telephone and Telegraph Company,
defendant.

O P I N I O N

This is a complaint by Rosario Richardson (Richardson) against The Pacific Telephone and Telegraph Company (Pacific) alleging that Pacific wrongfully disconnected her telephone service at her apartment on Ivy Drive in Oakland and requesting that we order Pacific to reconnect her service. Pacific defends its action in disconnecting her service on the alleged grounds of nonpayment of a \$202 telephone bill covering previous service rendered her under the name of Karen Schuler. Pacific alleges that it was not until Richardson had applied for and received service under the Richardson name at the Ivy Drive apartment that Pacific suspected that Karen Schuler and Richardson were the same person. After demand, notice,

and nonpayment of the \$202 bill by Richardson her service was disconnected. Richardson denies she ever used the alias Karen Schuler or that the service for which the \$202 bill is owing is related to Richardson. A hearing was held on the matter on December 7, 1976 at San Francisco before Examiner Pilling.

The telephone service at the Ivy Drive apartment in the name of Karen Schuler commenced sometime in October 1975 and was disconnected in January 1976 for nonpayment of the \$202 bill. Two weeks after the disconnection in January 1976, Richardson duly applied in her own name for service. That application was lost and she re-applied again in February 1976, after which service was installed. In trying to track down Karen Schuler Pacific noticed that a new service had been installed at the address of Karen Schuler's disconnected number, and in comparing the Schuler and Richardson applications it noticed certain similarities in the information contained on the applications. Both the applications gave the name of a Mary White as a reference. Karen Schuler's application gave a Myrtle Schuler as a reference while Richardson's application listed as her previous address the address which turned out to be that of Myrtle Schuler. The "can be reached" numbers on both of the applications, which turned out to be the telephone number of Myrtle Schuler, were the same. Richardson testified that Myrtle Schuler was her mother. The social security numbers on the applications were identical except for the middle two numbers, which were the reverse of each other. Karen Schuler's application listed herself as a student of dramatic art at Berkeley, a course which Richardson testified she had taken. A copy of the final bill submitted to Karen Schuler listed a charge to her telephone covering a call from San Francisco to the home phone number of Myrtle Schuler. When Pacific confronted Richardson with these facts she denied any knowledge of Karen Schuler, but Pacific, believing Richardson was Karen Schuler, dunned her for payment of the \$202 bill and when the amount was not forthcoming disconnected Richardson's service on June 30, 1976. Pacific sued Karen

Schuler, aka Richardson, in the small claims court and recovered an uncontested final judgement on April 30, 1976 for \$202 plus costs. Richardson claims she was unaware of this case against her. Pacific claims personal service of the complaint was made at her Ivy Drive apartment door. In July of 1976 Pacific attempted to garnish Richardson's wages at the Richmond post office, where her application for service showed she worked, but the return showed she had terminated on June 28, 1976. Also in July of 1976 Pacific attempted to have an Order for Examination served on Karen Schuler, aka Richardson, at the Ivy Drive apartment but the process server's return stated that "the people at the above address claim that she does not live there."

Pacific introduced into evidence a copy of a lease covering the Ivy Drive apartment which showed that Richardson was lessee of that apartment under a six-month lease and a month-to-month basis thereafter commencing June 21, 1975. Richardson testified that she had shared her apartment with a Carol Williams, who paid half the rent, until July 1976. Richardson stated that there was a telephone in the apartment prior to February 1976 but that Richardson had never applied for the service and had never used the service. She was unaware of the name in which the service was taken out.

A friend of Richardson for a period of approximately ten years, who moved into the Ivy Drive apartment shortly after the alleged Carol Williams moved out, testified that she had never heard Richardson use the name Karen Schuler. She testified that she had applied to Pacific for a phone in her own name to be placed in the apartment but that Pacific refused stating that as long as the \$202 bill remained unpaid and Richardson's name was on the lease and Richardson was still living there, Pacific would not install a phone in the apartment.

Findings

1. Pacific has a small claims final judgement outstanding against Richardson for \$202 plus costs.
2. While that judgement is outstanding it is an uncontestable debt.
3. Pacific showed and Richardson does not dispute that \$202 of the uncontestable debt covered unpaid charges for telephone service furnished to the Ivy Drive apartment leased by Richardson.
4. The small claims court had jurisdiction to hear the dispute and render a judgement on the matter.
5. Pacific's tariff Schedule Cal.P.U.C. No. 36-T, 4th Revised Sheet 50, Rule 11.A.2.c provides:
"A customer's telephone service may be temporarily or permanently discontinued for nonpayment of a bill for the same class of service (residence or business) previously furnished at a location served by the utility..."
6. The utility did not act improperly in disconnecting Richardson's telephone service when after demand, notice, and non-payment Richardson failed to pay the \$202 unpaid bill which Richardson had been found liable to pay by the small claims court for a previous service at the same location.
7. The complaint should be dismissed.

8. Since Findings 1 through 7 dispose of the matter none of the other issues presented by the case need be resolved.

O R D E R

IT IS ORDERED that Case No. 10113 is dismissed.

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

Dated at Sacramento, California, this 5th
day of APRIL, 1977.

Ruben Botucanal
President

William Lyons, Jr.

Vernon L. Sturgeon

Leonard Ross

Richard W. Shovalle
Commissioners