

Decision 05-06-051 June 30, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Tamara Scalera,

Complainant,

vs.

Charles Faccini dba Red & White Moving
(CAL T-107563),

Defendant.

(ECP)
Case 04-12-010
(Filed December 20, 2004)

OPINION DENYING COMPLAINT

Summary

Tamara Scalera (Complainant) seeks damages in the amount of \$10,000 from Charles Faccini, d.b.a. Red & White Moving (Defendant), for replacement of a television set, and related costs. Complainant alleges that Defendant caused damage to her television set as part of a household goods moving. The complaint is dismissed because the Commission lacks jurisdiction to award damages. This proceeding is closed.

Procedural Summary

By Administrative Law Judge's ruling dated January 4, 2005, Complainant was informed that the Commission lacks jurisdiction to award damages, and the complaint would be dismissed for that reason if Complainant failed to show

cause otherwise. No response was received from Complainant, and no hearing was held.

Discussion

Complainant incorrectly assumes that General Order (GO) 136-C provides the Commission jurisdiction to adjudicate this matter. While the Commission can resolve disputes between shippers and household goods carriers, the Commission has no jurisdiction to award damages in such matters. GO 136-C sets forth the insurance requirements that carriers must comply with in order to obtain a Commission license to operate as a mover of household goods.¹ As the Commission explains in its consumer information pamphlet:

“The PUC has no authority to compel carriers to settle claims for loss or damage and will not undertake to determine whether the basis for, or the amount of such claims is proper, nor will it attempt to determine the carrier’s liability for such loss or damage. If both you and the carrier consent, the claim may be submitted to an impartial arbitrator for resolution. You may also commence a lawsuit in small claims court or other court of law. If arbitration or civil action

¹ The Commission is the agency responsible for regulating the intrastate transportation of used household goods, personal effects and furniture, pursuant to Article XII of the California Constitution, the Household Goods Carriers Act (Pub. Util. Code §§ 5101 *et seq.*), the Commission’s Maximum Rate Tariff 4 (MAX-4), and Commission GOs 100-M, 136-C, 142, and others. These statutes and regulations require, among other things, that household goods carriers operate only in a responsible manner in the public interest; procure, continue in effect, and maintain on file adequate proof of public liability/property damage, cargo, and workers’ compensation insurance; and observe rules and regulations governing: (1) acknowledging and handling claims for loss and damage, (2) issuing estimates, (3) executing and issuing documents, (4) training and supervising employees, (5) maintaining equipment and facilities, and (6) rates and charges. The Commission is the primary agency responsible for enforcing these and other statutes and regulations governing household goods carriers. These other statutes and regulations include general consumer protection and public safety provisions.

results in a decision in your favor and the carrier fails to comply, contact the PUC.” (At p. 10.)

Based on the complaint, it appears that (1) Defendant has insurance that meets the GO requirements for household goods carriers, (2) Defendant has offered to settle this matter for \$7,000 (complaint Attachment 17), and (3) this matter is pending before the Superior Court for the County of Sonoma. Accordingly, the complaint should be dismissed for lack of Commission jurisdiction.

O R D E R

Therefore, **IT IS ORDERED** that the complaint is dismissed, and this proceeding is closed.

This order is effective today.

Dated June 30, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners

Commissioner John A. Bohn, being necessarily absent, did not participate.