

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

MARIAN RUSSELL,)	DOCKET TV-090289
)	
Complainant,)	
)	ORDER 01
v.)	
)	
BUMBLEBEE MOVING NORTH, INC.,)	INITIAL ORDER OF DEFAULT AND ORDERING FULL AND COMPLETE REFUND OF \$3,163
Respondent.)	
.....)	

1 ***Synopsis:** This is an Administrative Law Judge’s Initial Order that is not effective unless approved by the Commission or allowed to become effective pursuant to the notice at the end of this Order. This Order grants the Complainant’s Motion for Default Judgment and grants the relief requested in this complaint proceeding on the basis of findings made on uncontested evidence furnished by Ms. Russell at hearing. The Commission orders Bumblebee Moving to pay a full and complete refund of \$3,163 for failure to comply with Commission rules and Tariff 15-B as set forth in the Complaint and demonstrated by the evidence at hearing.*

2 **Nature of Proceedings.** This proceeding involves a private complaint filed with the Washington Utilities and Transportation Commission (Commission) by Marian Russell (Complainant or Russell) against Bumblebee Moving North, Inc. (Bumblebee). Ms. Russell seeks a refund of \$3,163, the entire cost of an intrastate move she hired Bumblebee to complete on August 31, 2007.

3 **Appearances:** Marian Russell, *pro se*, Edmonds, Washington, represented herself. No one appeared to represent Bumblebee at the hearing. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington represents the Commission’s regulatory staff (Staff) but did not enter a formal appearance in this private complaint proceeding.¹

¹ In formal proceedings, such as this, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding

4 **Background and Procedural History.** On February 19, 2009, Ms. Russell filed a formal complaint against Bumblebee. The complaint alleges that on August 31, 2007, Bumblebee moved Ms. Russell's household goods from one residence to another within the City of Edmonds, Washington, damaging her furniture in the process. The complaint further alleges that Bumblebee was deliberately slow in responding to Ms. Russell's damage claim, resulting in Ms. Russell committing an inordinate amount of time to have her antique furniture repaired, all at her own expense. Finally, the complaint alleges that Bumblebee failed to comply with numerous Commission regulations in performing the intrastate move of Ms. Russell's household goods.

5 The Commission set the matter for hearing and notified respondent Bumblebee that any party that failed to attend or participate in the hearing may be held in default. Bumblebee failed to file an answer or otherwise respond to the complaint.

6 The complaint was heard before Administrative Law Judge Adam E. Torem on due and proper notice to all parties on April 27, 2009, in Olympia, Washington. During the hearing, Ms. Russell testified regarding her dissatisfaction with the move and her frustrations with regard to submitting a damage claim to Jonathan Warner, President of Bumblebee, in the months following the move. Ms. Russell also submitted documentary exhibits in support of her claims, to include declarations from Commission employees detailing the company's violations of Household Goods Tariff 15-B. Bumblebee did not appear or otherwise submit any evidence on its own behalf.

DISCUSSION AND DECISION

7 **Applicable Law.** Any person may file a complaint with the Commission alleging that a public service company's act or omission violated a provision of state law or a Commission rule. The Commission must serve a copy of the complaint on the subject company along with a notice fixing the time and date for a hearing on the complaint. *RCW 81.04.110*. When a complaint alleges that a public service company has charged an amount in excess of the local rate in force at the time such charge was made, the Commission, after investigating and determining the truth of the

Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory staff. *RCW 34.05.455*. In this case, Commission Staff supported the Complainant in gathering evidence to support her complaint but did not formally participate as a party in this docket.

overcharge allegation, may order the company to refund the amount of the overcharge, with interest from the date of collection. *RCW 81.04.230*. Complaints against public service companies seeking to recover overcharges must be filed with the Commission within two years from the time the cause of action accrues. *RCW 81.04.235*. Any party who fails to attend or participate in a hearing scheduled by the Commission may be held in default. *RCW 34.05.440* and *WAC 480-07-450*.

8 **Default.** Ms. Russell moved that Bumblebee be held in default for failure to appear at hearing. The record reflects that Bumblebee received notice of the hearing by certified mail and failed to appear or otherwise respond to the complaint. Therefore, the presiding administrative law judge granted the motion. Even so, Complainant requested that the Commission hear and dispose of the substantive issues brought forth in her complaint against the company.

9 **Complaint -- Evidence.** Ms. Russell testified that she paid \$3,163 to Bumblebee for her cross-town move at the end of August 2007.² Ms. Russell indicated that although this was a greater amount than the company's initial estimate, this would have been a fair charge if the move had been completed competently.³ However, Ms. Russell testified that Bumblebee's movers were unprofessional and uncaring with her household goods, damaging a number of her antique furniture items, placing boxes and objects so that room doors could not be opened, and even making flippant comments aloud when they dropped furniture items.⁴

10 Ms. Russell also explained the diligent efforts she made to file a claim for damages with Bumblebee and her frustrations with Jonathan Warner, President of Bumblebee, in getting the company to respond to the claim.⁵ The record in this case reflects many hours of time spent by Ms. Russell in pursuing her damage claim against Mr. Warner's moving company.

11 Further, Ms. Russell submitted documentary exhibits demonstrating that the company's bill of lading was incomplete and computed incorrectly under the Commission's Household Goods Tariff 15-B, which was in effect at the time of her

² TR. 40:20-24; *see also* Exhibit 4, page 24 (showing payment made by check #5375 on September 1, 2007).

³ *Id.*, at 43:11-23; *see also* Exhibit 4, pages 12-17 and 24-27.

⁴ *Id.*, at 42:3-25 and 45:7 to 46:9.

⁵ *Id.*, at 47:14 to 48:2; *see also* Exhibits 2, 3, and 8.

move. Ms. Russell also testified that as a result of the informal complaint process she had pursued, Commission employees had advised Mr. Warner to refund all of the money Ms. Russell had paid for the move.⁶

12 Finally, Ms. Russell submitted documentary evidence showing that the Commission cancelled Bumblebee's household goods permit on January 8, 2009.⁷

13 **Commission Decision.** Marian Russell's complaint against Bumblebee Moving North, Inc., demonstrates the importance of household goods moving companies adhering to the Commission's published Tariff and following Commission rules when responding to damage claims. The record in this case demonstrates that Bumblebee failed to properly prepare and calculate the consumer's bill of lading, damaged her household goods during the move,⁸ and then failed to promptly process the claim as required by Commission regulations.

14 Bumblebee prepared a bill of lading with illegible numbers and notations, omitted information, and charges that do not sum to the totals shown on the document.⁹ The moving documents do not comply with the requirements set out in Tariff 15-B.¹⁰

15 Bumblebee failed to respond to Ms. Russell's formal complaint or appear at hearing to contest any of Ms. Russell's evidence of their unprofessional conduct of her move.

16 The Complainant has carried her burden of proving that she was overcharged for her move. Due to Bumblebee's failure to adhere to Tariff 15-B, including the improper bill of lading and failure to properly process Ms. Russell's claim, the Commission determines that the appropriate remedy is a refund of the full amount charged.

FINDINGS OF FACT

17 Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated above our findings and conclusions upon issues in dispute among the parties and the reasons supporting the findings and conclusions,

⁶ See Exhibit 2.

⁷ See Exhibits 5 and 6.

⁸ Ms. Russell is pursuing a claim for damages to her household goods in small claims court.

⁹ See Exhibit 2 and Exhibit 4, pages 24-25.

¹⁰ See Exhibit 7, pages 29-37 (Item 95).

the Commission now makes and enters the following summary findings of fact ,
incorporating by reference pertinent portions of the preceding detailed findings.

- 18 (1) The Washington Utilities and Transportation Commission is an agency of the
State of Washington, vested by statute with authority to regulate persons
engaged in the business of transporting household goods for compensation
over the public roads of the state of Washington.
- 19 (2) Bumblebee Moving North, Inc., held a household goods carrier permit in
2007, and under that authority conducted an intrastate move of Marian
Russell's household goods within the City of Edmonds on August 31, 2007.
- 20 (3) On February 19, 2009, Marian Russell filed with the Commission a private
complaint against Bumblebee Moving North, Inc., claiming she had been
overcharged \$3,163 for her intrastate move.
- 21 (4) On April 2, 2009, the Commission issued and served a notice of hearing,
scheduling an evidentiary hearing in Olympia, Washington, for the afternoon
of April 27, 2009.
- 22 (5) Bumblebee Moving North, Inc., failed to appear at the hearing convened on
April 27, 2009.

CONCLUSIONS OF LAW

- 23 Having discussed above all matters material to this decision, and having stated detail
findings, conclusions, and the reasons therefore, the Commission now makes the
following summary conclusions of law incorporating by reference pertinent portions
of the preceding detailed conclusions.
- 24 (1) The Commission has jurisdiction over the subject matter of this proceeding
and over Bumblebee Moving North, Inc., pursuant to RCW 81.04.110, RCW
81.80, and WAC 480-15.
- 25 (2) Bumblebee Moving North, Inc., failed to appear at the April 27, 2009,
hearing in this matter and is in default. *RCW 34.05.440; WAC 480-07-450.*

- 26 (3) The Commission is authorized under WAC 480-15-130 to enforce statutes, rules, and its own orders related to household goods carriers.
- 27 (4) The Commission may, after notice and opportunity for hearing, award a refund of any alleged overcharge determined to be true, with interest. *RCW 81.04.230.*
- 28 (5) Marian Russell timely filed a formal complaint alleging an overcharge of \$3,163 within two years from the date of her August 31, 2007, household goods move. *RCW 81.04.235.*
- 29 (6) The record in this proceeding demonstrates that Bumblebee Moving North, Inc., failed to comply with Tariff 15-B, which was in effect at the time of Ms. Russell's move, by improperly preparing the bill of lading and failing to respond to Ms. Russell's damage claim.
- 30 (7) In accordance with RCW 81.04.230, the Commission is justified in awarding a full and complete refund of the amount Ms. Russell paid for the move.

ORDER

THE COMMISSION ORDERS THAT:

- 31 (1) Bumblebee Moving North, Inc., is in default; and
- 32 (2) Bumblebee Moving North, Inc., must refund \$3,163 to Marian Russell, with interest at the rate of 12 percent per annum, effective September 1, 2007.

DATED at Olympia, Washington, and effective May 19, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

NOTICE TO PARTIES

This is an Initial Order. The action proposed in this Initial Order is not yet effective. If you disagree with this Initial Order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this Initial Order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this Initial Order to file a *Petition for Administrative Review*. What must be included in any Petition and other requirements for a Petition are stated in WAC 480-07-825(3). WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within ten (10) days after service of the Petition.

WAC 480-07-830 provides that before entry of a Final Order any party may file a Petition to Reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. No Answer to a Petition to Reopen will be accepted for filing absent express notice by the Commission calling for such answer.

RCW 80.01.060(3) provides that an Initial Order will become final without further Commission action if no party seeks administrative review of the Initial Order and if the Commission fails to exercise administrative review on its own motion. You will be notified if this order becomes final.

In addition, WAC 480-07-450(2) provides that a party who is dismissed from a proceeding or found in default may contest the order of dismissal or default by filing a written motion with the Commission within ten days after service of the final order. A dismissed party or party found in default may request that the order be vacated and, if the order is dispositive of the proceeding, that the proceeding be reopened for further process.

One copy of any Petition or Answer filed must be served on each party of record with proof of service as required by WAC 480-07-150(8) and (9). An Original and **three (3)** copies of any Petition or Answer must be filed by mail delivery to:

Attn: David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250