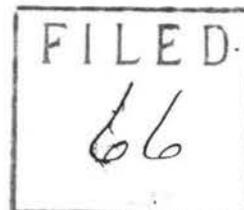


CONTRACT: Workmen's Compensation Commission, right to terminate
✓ Tabulating Machine Company contract at end of quarter.

July 14th, 1933 7/15



Mr. Edgar C. Nelson, Chairman,
Workmen's Compensation Commission
Jefferson City, Missouri.

Dear Sir:

We have your request of July 1st, 1933 for an opinion upon the following state of facts:

"We are desirous of cancelling the enclosed contract, and before taking final action in regard to same we would like to have an opinion from your office. The second quarterly period of said contract ended yesterday and as we did not have sufficient time to get a written opinion from your office, we sent the enclosed telegram, which we feel, is sufficient to cancel the contract as of yesterday's date.

The company's representative was in the office this morning and it seems to be his opinion that they should have at least ninety days' notice, so before we take any action which might result in a suit being filed against this department, we request that you advise us, first, as to whether or not the telegram which we sent yesterday would cancel the contract as of June 30th; add second, if the contract could not be cancelled as per the telegram, how much notice would we have to give?"

The telegram referred to is as follows:

"You are hereby notified that we are today cancelling our contract number nine eight six eight for tabulating machine service said cancellation to be effective in accordance with said contract at the end of the present quarterly contract period."

The written contract submitted with your letter which was executed in 1926 is silent as to length of notice to terminate such contract. However, it does provide:

July 14th, 1933

"This agreement for the aforementioned equipment shall remain in force for One Year from the date that the machines are installed ready for your use, and Quarterly thereafter unless terminated by us in accordance with the stipulations of this contract, with the exception that the use of the Standard Tabulating and Vertical Sorting Machines may be terminated by you at the close of any calendar month."

After the lapse of the first year, to-wit, 1927 by the contract provisions above set out, the machines are left in your possession with the continuing offer of the company to rent them to you quarterly for a stipulated rental, and your acceptance and use of said machines during each new and succeeding quarter makes a binding contract. However, you have the right and authority before the end of any quarterly contract to cancel the above contract.

We understand from your letter and oral conversation that the above telegram dated June 30th, 1933 was sent to and received by the Tabulating Machine Company on that date which was the last day of that quarter. The telegram is sufficient notice of your intention not to accept the offer of the Tabulating Machine Company to rent you the machines enumerated in the contract for the new quarter containing the months of June, July, August and September, 1933.

While the contract provides for rental of the machines quarterly, the contract is one where the parties have failed to express themselves in terms capable of being reduced to lawful certainty by judicial effort. The above contract, in the opinion of this Office, is one for an indefinite duration, therefore terminable at will. 13 C. J. p. 604, Massachusetts Bonding and Insurance Company v. Simonds, Shields & Lonsdale Grain Company, 49 S. W. (2d) 645.

It is therefore the opinion of this Office that the above contract has been properly terminated as of June 30th, 1933.

Respectfully submitted,

FRANKLIN E. REAGAN,
Assistant Attorney-General

APPROVED:

Acting Attorney-General

FER/mh