

September 9, 2002

IN RE: ENOCH JEROME
DOCKET NO. 35WRMERZY5890

STATEMENT OF RECORD:

1. Enoch Jerome (hereafter "Petitioner") filed a Tax Review Board petition on February 21, 1997 to contest a water/sewer bill for the property at 1111 West Westmoreland St. Philadelphia, Pa.
2. A public hearing was held before the Tax Review Board on June 4, 2002. At the close of the hearing the Board announced its decision to abate one-half of the penalty and the lien charge.
3. Petitioner has appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner filed a Tax Review Board petition to contest the water/sewer assessment for the property 1111 West Westmoreland St. for the billing cycles 1995-07 to 1997-11, corresponding to the dates 6/15/1995 to 11/12/1997. The principal amount of the bill was \$877.53 with penalties of \$414.38 and lien charges of \$40, for a total of \$1,338.35.
2. On or about February 1996, the City shut off the water to the property in response to a violation of The Philadelphia Code requirements pertaining to the plumbing.
3. Service was not discontinued at that time. Water service was still available to Petitioner at that property upon correction of the violation that caused the water to be turned off by the Department. The water was turned off to prevent damage to the property itself or to surrounding property. Monthly billing continued for the service charge.
4. Petitioner filed for a Discontinuance Permit from the Department of Licenses and Inspections in November 1997. At the time that this permit was paid water service was discontinued and all billing for water/sewer service was stopped. All bills in question were for periods prior to the issuance of the Discontinuance Permit.
5. Petitioner contended that a credit was due to him because the billing should have stopped in February 1996 when the water was turned off by the Water Department.

CONCLUSIONS OF LAW:

"A customer may cause the Department to discontinue water and sewer service charges on his property when he...secures a permit to discontinue water service from the Department of Licenses and Inspections...". The Philadelphia Code Chapter 19-1601(1)(a) and (.1).

Petitioner secured a Discontinuance Permit in November 1997. All water and sewer service charges were discontinued from that point forward. Outstanding charges for this property are all for the period prior to the issuance of the Discontinuance Permit.

While the water may have been turned off by the Water Department in 1996 because of leaks or other problems at the property, this shut off was not a discontinuance of service.

Petitioner was requesting that the February 1996 shut off by the Water Department be considered as the time of service discontinuance and that all billings after that date be abated. However, even following the water shut off, Petitioner had the water service available to him at that property. Had he chosen to do so, Petitioner could have hired a plumber to correct the problems at the property that caused the Department to shut off the water and then had the water turned on and available to any occupant of the property.

It was only after the issuance of the Discontinuance Permit that the water service was eliminated from the property, meaning that Petitioner could not restore water to the property under any circumstances. At that point, the billing was also discontinued. Therefore, Petitioner was correctly billed through the date of the Discontinuance Permit.

Concurred:

Derrick Johnson, Vice-Chairman

Wade Stevens

Una Vee Bruce