

December 8, 2015

In Re: Deborah Coleman

Docket No: 35WRMERZW5229

Statement of Record:

- 1) Deborah Coleman (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on September 10, 2014 requesting review of a Water Revenue bill for the property at 3127 N. 25th St. Philadelphia, PA.
- 2) A public hearing before a TRB Master was held on May 6, 2015. The decision of the Master, as ratified by the TRB, was to adjust the water usage for the period February 22, 2014 to March 23, 2014 based on 13,725 cubic feet per month and abate 100% of the penalty.
- 3) Petitioner requested and was granted a rehearing before the full TRB.
- 4) A public hearing before the TRB was held on October 6, 2015. The decision of the Board was to adjust the water usage for the period February 22, 2014 to March 23, 2014 based on 10,000 cubic feet per month and abate penalty.
- 5) Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

- 1) Petitioner owned the property at 3127 North 25th St. Philadelphia PA. during all periods in question.
- 2) Petitioner requested TRB review of the Water Revenue bill for the period February 22, 2014 to March 23, 2014. The original amount due for this bill was principal of \$3175.99 and penalty of \$49.02, as of the first TRB hearing, for a total due of \$3,225.01.
- 3) Petitioner questioned the water usage readings of 37,800 cubic feet taken on February 22, 2014 and 13,725 cubic feet take March 23, 2014. These two readings were many times over the usage readings both before and after these two high reading dates. Petitioner's monthly water usage, other than for the two questioned meter readings fluctuated between 100 and 300 cubic feet per month.
- 4) The decision of the TRB Master following the hearing on May 6, 2015 was to reduce the excessively high readings to 13,725 cubic feet per month.
- 5) Although the TRB hearing was de novo, the information provided by the Water Revenue Bureau (WRB) personnel reflected adjustments based on the Master's decision. Based on these adjustments, the amount due was \$1,578.77, reflecting a usage adjustment of \$1,646.21 and penalty waiver of \$49.02.
- 6) Petitioner testified that on March 5, 2014, a pipe burst in her basement. The water hit the water meter as it was spewing from the pipe. Petitioner testified that she and her uncle were home at the time and he quickly turned off the water. A plumber did the needed repairs that day. Her belief was that the excessive water damaged the meter and caused an incorrect reading that was too high.

- 7) The first large reading was on February 23, 2014, prior to any pipe actually bursting, as occurred on March 5, 2014.
- 8) The second large reading was taken on March 23, 2014 following the burst pipes and plumbing repairs.
Thereafter the bill returned to its typical usage of 100 to 300 cubic feet per month.
- 9) Following the plumbing repairs and subsequent high bill, a Philadelphia Water Department (PWD) representative came to the house in response to Petitioner's complaint about the high bill. This was on or about April 8, 2014.
- 10) PWD information provided at the hearing was that at the property in April 2014, the meter was inspected & the battery for the electronic transmitter was changed. The meter itself was not changed. The meter was older than 15 years at that time but is still in the property and functioning. The battery change was due to Petitioner's complaint and an attempt by PWD to respond to Petitioner's concern by ensuring the meter was in working order.

Discussion:

Petitioner's bill had 2 readings showing excessive usage. The initial high reading on February 22, 2014 preceded the burst pipe. Petitioner did not address this and left the TRB with no choice but to assume a leak of same kind in the property, causing a higher than usual bill. However because Petitioner saw no evidence of the leak in her property, the TRB found the high reading excessive even if a leak were present for some time period leading up to the reading. The prior reading on January 23, 2014 was for 100 cubic feet per month, so any type of leak at the property had to have occurred after that reading. The usage charge of 37,800 was excessive in light of Petitioner's testimony that no water leakage was obvious at the property.

On the day the pipe burst in the property basement, both Petitioner and her uncle were in the house and attended to it promptly. The water was shut off quickly before it could create a flood and the plumber called for same day repairs.

The decision of the TRB was to reduce the usage based on Petitioner's testimony that the force of the water from the burst pipe may have jarred the meter and caused the reading to jump to a higher level than accurately reflected the true usage.

However, there is no doubt that the burst pipe in the property did cause excess water to spill into the property for however short a period of time. By the Petitioner's own testimony, water spewed out of the pipe with great force. This alone would certainly result in a onetime spike in the property's water bill.

In addition the high meter reading received directly before the pipe burst is indicative that a leak of some kind existed as a pre-cursor, perhaps, to the bursting of the pipe. This theory is validated by the fact that the plumbing repair to that pipe area resulted in a return to the 100 to 300 cubic feet per month meter readings that were the norm for this property. In addition, this confirms that the meter continues to function properly after all of the plumbing repairs.

Pursuant to the Philadelphia Code Chapter 19-1702, the TRB may abate penalties as part of a review. The standard adopted by the TRB is expressed in The Philadelphia Code Chapter 19-1705(2) which specifically addresses interest and penalty waivers and states in part that “the Tax Review Board may abate in whole or in part interest or penalties, or both, where in the opinion of the Board the petitioner acted in good faith, without negligence and no intent to defraud. “

In this circumstance, there is no doubt that Petitioner acted quickly to address the issue of a leak and/or burst pipe. The water was stopped and a plumber called for all needed repairs. The questioning of the high bill and a request to PWD to check the meter occurred promptly.

Therefore the TRB directed that all penalties related to the questioned billing be abated.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

Kaitlin McKenzie- Fiumara, Esq.

George Mathews

Martin Bednarek