

October 9, 2015

In Re: Serguei Iastremskii

Docket No: 35WRMERZW5605

STATEMENT OF RECORD:

1. Serguei Iastremskii (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on April 3, 2014 requesting review of the City of Philadelphia Water Revenue Bureau bill for the property at 3741 North 16<sup>th</sup> ST. Philadelphia, Pa.
2. A public hearing before a TRB Master was scheduled for December 1, 2014. The recommended decision of the Master, announced at the close of the hearing, was as follows:

For the period 7/20/12 to 11/22/13, adjust the water usage based on zero (0) cubic feet per month; abate 100% of the penalty; Petitioner has 30 days from the date of the revised bill to enter into a payment plan.

The TRB decision letter ratifying the Master's recommended decision, mailed December 5, 2014 restated the decision and provided the information that Petitioner had 30 days from the date of the revised bill, to be issued by the Department of Revenue, to appeal for a new hearing before the Tax Review Board.

3. On April 1, 2015, Petitioner submitted a new Petition for Appeal to the TRB requesting review of the same bill that was appealed with the Petition that was the subject of the December 1, 2014 hearing. Attached to this petition was also petitioner's rehearing request from the December 1, 2014 decision.
4. The rehearing request was denied due to its untimely filing. The new petition could not be accepted as it was for a matter already adjudicated and, in the alternative, was untimely as it had not been filed within the 60 day time frame required by The Philadelphia Code Chapter 19-1700 et seq.
5. Petitioner filed an appeal to the Court of Common Pleas.

DISCUSSION:

Petitioner filed a Petition for Appeal with the TRB on April 3, 2014 requesting review of a Water Revenue Bureau bill. All TRB correspondence was sent to the representative named on the petition at the mailing address listed on the petition.

A hearing notice was sent to this name and address of record and Petitioner and/or his representative appeared at the hearing on December 1, 2014. At the conclusion of the hearing, the recommended decision of the Master was announced to Petitioner and the city representative.

A written confirmation of the decision and Petitioner's further appeal rights was mailed 4 days later, on December 5, 2014, again to the representative and address provided on the Petition for Appeal. This was the same address to which the hearing notice was mailed for the December 1, 2014 hearing attended by the petitioner. The TRB file does not contain any returned or undelivered mail from the U.S. Post Office.

1. In the rehearing request filed by Petitioner on April 1, 2015, Petitioner admitted receiving the adjusted bill from the December 1, 2014 hearing and decision, in January 2015. However, Petitioner's rehearing request was not received until April 1, 2015.

Tax Review Board Regulations Article 11 states:

The Board, in its discretion, may assign a Master to take testimony, review evidence and issue a recommendation for decision to the Board. The Board shall promptly notify, in writing, the taxpayer, the department and any other City official of its decision, after receiving and reviewing the Master's recommendation. After decision, any party shall have the right of a hearing de novo before the Board, if requested within thirty (30) days after the mailing date of the decision.

Petitioner's request for a rehearing was not received until April 1, 2015, beyond the 30 days from when the adjusted bill was, admittedly received by Petitioner in January 2015. Therefore, the rehearing request was denied.

Hearings before a TRB Master are not of record as both parties have the right of appeal to the full TRB. When a timely request is made, a de novo hearing will occur before the full TRB where the record is created for any appeal to the Court of Common Pleas.

2. Petitioner also submitted a second Petition for Appeal on April 1, 2015 requesting review of the same water/sewer bill issued on December 30, 2013 that was the subject of the Petition for Appeal filed on April 30, 2014.

While the TRB is not bound to strictly adhere to legal principles as a court of law, it does follow the general concept of the doctrine of Res Judicata and enforces as a matter of policy that petitioners cannot raise a subsequent challenge or file a new Petition for Appeal of a matter or billing that has been the subject of a prior TRB review.

This particular bill was already the subject of a prior appeal petition and hearing. A taxpayer cannot file multiple petitions for the same bill and continue to request reviews once the specific bill or claim has been considered and reviewed.

3. The Philadelphia Code Chapter 19-1702(1) states:

Every petition for review of any decision or determination relating to the liability of any person for any unpaid money or claim collectible by the

Department of Revenue, for or on behalf of the City or the School District of Philadelphia, including, but not limited to, any tax, water or sewer rent, license fee or other charge, and interest and penalties thereon, shall be filed with the Tax Review Board within 60 days after the mailing of a notice of such decision or determination to the petitioner.

Notwithstanding paragraph 2. above, this second petition was received well beyond the 60 day jurisdictional limitation set forth in The Philadelphia Code and so was filed untimely for this bill regardless of whether there had been any prior action by the TRB.

For the above stated reasons, Petitioner's requests for a rehearing or a new hearing were denied.