

6/28/2013

IN RE: Norma Mitchell

DOCKET NO: 35WRMERZW7797

Statement of Record:

1. Norma Mitchell (hereafter "Petitioner") requested review by the Tax Review Board (TRB) a water/sewer bill for the property at 3025 West Susquehanna Ave. Philadelphia, Pa. This appeal was filed with the TRB on April 14, 2010.
2. A public hearing before a TRB Master was scheduled for October 28, 2011. At the conclusion of this hearing, the decision of the Master, as ratified by the TRB, was to deny the petition.
3. Petitioner requested, and was granted, a rehearing before the full TRB.
4. A hearing before the TRB was scheduled for February 7, 2012. The decision of the TRB, announced at the conclusion of the hearing, was to grant the petition as the "city has no evidence that Petitioner entered into WRAP agreement".
5. The Philadelphia Water Revenue Bureau (WRB) requested and was granted a rehearing.
6. A hearing before the TRB was scheduled for February 26, 2013. At the conclusion of this hearing, the TRB announced its decision to uphold its original decision issued on February 7, 2012.
7. The WRB requested a rehearing. This request was denied by the TRB.
8. The Philadelphia WRB has appealed to the Philadelphia Court of Common Pleas.

Findings of Fact:

1. Petitioner appealed for review of the water/sewer bill for the property at 3025 West Susquehanna Ave. Philadelphia, Pa for the period December 11, 1997 through February 18, 1999. The principle amount due for this period was \$1,048.39 with penalties as of the TRB hearing date of \$78.54 and lien charges of \$20, for a total due of \$1,146.93.
2. In 1997, Petitioner filed for bankruptcy. This bankruptcy was discharged in 2007 at which time Petitioner believed the delinquent water/sewer bills for this property had been discharged as part of the bankruptcy.
3. Upon receiving the bill in dispute, Petitioner inquired about it and was told that this bill had survived the bankruptcy. She then paid the amount of \$1302.41 on February 18, 2011.
4. The WRB representative, Ms. Altermease Holmes, testified that the bill in question was the result of Petitioner's participation in the City's Water Revenue Assistance Program (WRAP) for low income customers and represented charges that had been deferred during Petitioner's

participation in that program. There was no mention at the February 26, 2013 hearing of Petitioner's 2011 payment of \$1302.41 and to what portion of her bill it had been applied.

5. When an applicant is approved for the WRAP, they are offered the opportunity to pay a specific fixed amount each month with any remaining amount due placed on hold to be billed at a later time when they are no longer part of this program. The fixed, reduced WRAP amount remains the same each month.
6. Petitioner denied ever participating in a low income program because she had been gainfully employed at all times and did not believe she would have ever qualified for such a program.
7. Due to her financial difficulties and resulting bankruptcy, she may not have always paid the water/sewer bills in a timely manner, thus resulting in delinquencies.
8. At the first TRB hearing on February 7, 2012, the WRB representative had no evidence for the TRB to prove that Petitioner had applied or, been accepted into or had received the benefits of participating in the WRAP.
9. At the TRB hearing on February 13, 2013, the WRB representative provided computer system information of an application by Petitioner in 1997 and 1998 for the WRAP. The actual application could not be provided due to the age of the application and the department's record retention schedule. Any paper applications from as far back as 1997 were no longer available.
10. The printout of Petitioner's account for the period in question showed that varying amounts were billed each month, some based on estimates and some based on actual readings. For example: In early 1998, Petitioner's account was billed \$45.87 for several months based on estimated usage. When an actual reading was received, she was billed \$240.62 in April 1998 and then \$60.66 in May 1998.
11. The payments received from Petitioner also varied each month. For example: June 5, 1998 showed a payment of \$47.66, August 31, 1998 a payment of \$49.57 and October 26, 1998 a payment of \$40.69.

Conclusions of Law:

It was the finding of the TRB that Petitioner met her burden of proof to establish that the bill in dispute was no longer outstanding. She acknowledged accruing delinquencies on her water/sewer account at the time she filed for bankruptcy. Upon the bankruptcy's discharge when she learned that a large outstanding amount was still due to the WRB, she remitted \$1302.41. There was insufficient documentation to show that she owed more than that amount.

The TRB found that the city failed to produce sufficient evidence to establish that Petitioner did not pay in full the bill in dispute. It was the finding of the TRB that the city was unable to refute Petitioner's evidence and validate the outstanding balance.

While the city claimed that the amount in question was a deferred delinquency accrued while Petitioner was in the city's WRAP, the evidence provided by the city failed to show that Petitioner received the benefits of this program. The city did not provide any information to show Petitioner was billed a reduced "WRAP" amount each month or that she paid such a

reduced amount. The printout provided by the city showed amounts billed were sometimes estimates and sometimes actual usage. Payments received varied in amounts.

In addition, without even having to reach a finding as to whether Petitioner had received the benefits of the WRAP, the TRB finds that the city did not refute the evidence that following Petitioner's bankruptcy discharge, she was billed for the full amount due on the account and paid it. In 2011, Petitioner paid over \$1300 in response to a delinquent billing. There was no evidence provided to show that the account had accrued a second delinquency of over \$1000 that would therefore not have been satisfied by this 2011 payment.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

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Milton Oates, CPA