

August 4, 2015

**In Re: Liron Shoshan**

**Docket No: 35WRMERZW6844**

Statement of Record

1. Liron Shoshan (hereafter "Petitioner") filed a Petition for Appeal on April 25, 2012 with the Tax Review Board (TRB) for review of certain water sewer bills for the property at 4442 North 18<sup>th</sup> St. Philadelphia, Pa.
2. A public hearing was scheduled before a Tax Review Board Master for October 19, 2012 at which time the matter was continued to allow Petitioner time to bring in documents for his case.
3. A public hearing was scheduled before a Tax Review Board Master for January 4, 2013 at which time the matter was continued to allow Petitioner time to bring in documents for his case.
4. A public hearing before a Tax Review Board Master was scheduled for June 26, 2013. The decision of the Master, as ratified by the TRB was to deny the petition as Petitioner did not appear for the hearing.
5. Petitioner requested, and was granted a rehearing.
6. A public hearing before a Tax Review Board Master was scheduled for December 6, 2013. The decision of the Master, as ratified by the TRB, was to deny the petition.
7. Petitioner requested, and was granted, a rehearing.
8. A public hearing before the Tax Review Board was scheduled for June 5, 2014. The decision of the TRB was to deny the petition as Petitioner did not appear at the hearing.
9. Petitioner requested, and was granted, a rehearing.
10. A public hearing before the Tax Review Board was scheduled for October 28, 2014. At the conclusion of the hearing, the Tax Review Board announced its decision to adjust the water bill for the period April 20, 2011 to March 30, 2012 based on usage of 2600 cubic feet per month. There was no adjustment to any other periods.
11. Petitioner filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

1. Petitioner purchased the property at 4442 North 18<sup>th</sup> Street in August 2008 at a City of Philadelphia Sheriff Sale.
2. Petitioner testified that at or close to the time of purchase, a tenant was evicted and the property became vacant.
3. The bill in question covered the period of 11/18/2008 to 4/22/2012. The principal amount due was \$14,719.64, the penalties at the time of the TRB hearing was \$2,851.99, and the lien charges were \$80.00, for a total due of \$17,651.63.
4. The property is a 3 bedroom row house.
5. Petitioner began to receive water/sewer bills shortly after the property was purchased in 2008. He believed the bills to be erroneous and the usage charges to be inaccurate. He may have called the Water Department at the time but did not follow through to investigate or appeal the bills.
6. Petitioner testified that at some point in 2009, the property was burglarized and, Petitioner believed, the water meter was stolen along with the copper pipes. He did not report the meter theft to the Water Department or arrange for the installation of a new meter.
7. After renovating the property, Petitioner had a tenant move into the property in January 2011.
8. There was no meter in the property at the time tenant moved into the property. However, the petitioner's plumber had restored water service to the property and the tenant was using water. Petitioner admitted that his plumber had connected the pipes to the City's water service without installing a water meter.
9. Petitioner did not request a new meter until March 2012.
10. Petitioner admitted to ignoring the bills during the years in question.
11. At the several hearings at the Tax Review Board, Petitioner was given the opportunity to provide information or documentation to substantiate that the property was vacant prior to January 2011. He did not provide any documentation related to 2008, 2009 and/or 2010.
12. Water Revenue Bureau records showed actual usage registered at the property for periods throughout the years in question up to 2011. This information directly contradicted Petitioner's testimony that the property had no meter to register usage. Billings provided by the WRB showed actual usage during the years of 2008 thru 2010
13. The only billing period for which estimated bills were used was 4/20/11 thru 3/30/12, during which time Petitioner admitted to having a tenant in the property and water usage with a plumbing hook up intentionally set up to bypass the need for a meter.

14. Petitioner did not provide any documentation from other utilities to corroborate his testimony that the property was vacant. He did not provide any information or documentation to show the condition of the property from 2008-2011.

15. Petitioner provided the TRB with usage documentation for electric and gas utilities for 2011 and 2012 showing moderate amounts of usage for that time period.

#### Conclusions of Law

The party initiating an action carries the burden of proving his or her claim in an administrative hearing. *Dep't of Transportation v. Pa. Human Relations Comm'n*, 84 Pa. Commwlth. 98, 480 A.2d 342 (1984). The burden of proof before the TRB is on the petitioning party to establish with substantial evidence that the bill in question warrants an adjustment for abatement.

Petitioner failed to meet this burden of proof. He admitted that he received water bills during the entire period in question and for the most part, just ignored them.

He testified that the property was vacant for most of the years at issue and so he did not see a reason to address the bills. Now that he was ready to address the bills, the city should just use commonsense and reduce or abate the bills.

While he testified that there was no meter for all those years, the city's records showed actual meter readings were recorded.

When asked for corroborating documentation, Petitioner was unable to produce any records, photos or other evidence. There had been no contemporaneous attention to the issue and now after so many years had gone by, evidence was unavailable or could not be constructed. For example, there were no photographs to show a vacant or vandalized property that had no pipes for water, there was no Water Department investigation to confirm if the meter had gone missing prior to 2011. These types of evidence may have been available had Petitioner acted timely to address the billings.

Petitioner sat on his rights from 2008-2012 and then expected that the city would somehow understand or accept that he could not produce evidence to substantiate his position that the usage on the bills was incorrect.

As stated by the TRB Chair, Nancy Kammerdeiner, based on the evidence, The Board "was not able to determine whether there was or wasn't someone who was a tenant and there was no way of knowing whether they were appropriate or inappropriate bills..." Petitioner did not prove his position that the bills were issued in error for periods prior to 4/20/2011.

In reviewing the period from 4/20/2011 through 3/30/2012, a time period for which Petitioner admitted the property was tenant occupied, he submitted both Peco and PGW bills showing usage well below the corresponding amounts for the water usage billed and convincing to the TRB that the water usage was billed was too high and warranted an adjustment.

Therefore, for this latter period only, The TRB directed an adjustment based on 2600 cubic feet per month for the period 4/20/2011 through 3/30/2012.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

George Mathew, CPA

Christian DiCicco, Esq.

Martin Bednarek