

4/17/2012

In Re: Patricia Daniels

Docket No: 35WRMERZW7354

STATEMENT OF RECORD:

1. Patricia Daniels (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on January 10, 2011 requesting review of the Water Revenue Bureau (WRB) billing for the property at 422 North 59<sup>th</sup> St. Philadelphia, Pa.
2. A public hearing before a TRB Master was held on October 4, 2011. 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 public hearing before the TRB was held on January 3, 2012. At the conclusion of the hearing, the Board announced its decision to deny the petition for the purpose of adjustments to the bill under appeal but provide Petitioner with 120 days from the date of the bill generated by the WRB as a result of the hearing to arrange installments to pay the balance due.
5. Petitioner has appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner requested review of a delinquent water/sewer bill for the property at 422 North 59<sup>th</sup> St. Philadelphia, Pa. This bill covered the period from October 10, 2008 to November 16, 2010. The principal amount due for that period was \$2093.44. There were no accrued penalties or other charges.
2. Petitioner, as a tenant in this property, became a WRB customer in 2007. She paid all monthly bills as they were received and became due. There was no dispute that she had made timely payments for the bills as issued during the period in question.
3. Petitioner's account was credited with all payments she had made. In addition due to billing errors and confusion by the WRB, the department had waived all penalties that might have accrued against the delinquency. She was only billed for usage based on actual reading to actual reading i.e. the August 2008 meter reading to the November 2010 meter reading.
4. As of the hearing date, Petitioner's balance owed was \$1103.90.
5. Petitioner resided in the property with 4 other family members during the period in question.
6. Petitioner failed to notice that the bills she was receiving were estimated for usage and not based on actual water meter readings.

7. In November 2010, a representative of the Philadelphia Water Department (PWD) came to the property to tell her that the PWD was not getting readings from the automated meter in the property. It was her understanding that the representative changed the meter at that time.
8. Following this visit from the PWD, the next water/sewer bill Petitioner received showed a very large balance of \$1350.88 which she initially believed to be a mistake as she had been paying the monthly bills.
9. However the November 2010 visit by the PWD was for the purpose of changing the ERT that allows the meter reading to be automatically transmitted. The meter was still accurately registering water usage for the property, but not “sending” it so the WRB could record and bill the actual water usage for the property.
10. The estimated bills that Petitioner received and paid for the 27 month period were below the actual usage that was recorded when the ERT was changed and the meter reading obtained by the PWD.
11. The bill Petitioner received after the November 2010 actual meter reading was for the deficiency created by the estimated usage on Petitioner’s bills that, in reality was below the amount that was actually being used at the property by Petitioner and her family.
12. Petitioner was unaware that the bills she had been paying were estimating usage amounts. She did not deny that the water had been used.
13. Petitioner requested the bill be reduced or adjusted due to the time delay by WRB and PWD in changing the ERT and providing her with actual, rather than estimated, bills.

#### CONCLUSIONS OF LAW:

The party initiating an action carries the burden of proving his or her claim in an administrative hearing. Department of Transportation v. Pa. Human Relations Commission, 84 Pa. Cmwlth. 98, 480 A.2d 342 (1984). Petitioner failed to meet the burden of proof to establish that the bills she was contesting were issued in error or did not accurately reflect the water that had been used at the property during the period in question.

The findings of the TRB were:

1. There was no evidence provided to establish that the water meter in the property was not working properly.
2. There was no evidence provided to establish that the meter was recording higher water usage amounts than were actually being used in the property.
3. The WRB had adjusted all bills to accurately reflect the water usage based on actual readings from the water meter.

While the board members could sympathize with Petitioner’s frustration at the delay in getting an accurate bill, the bills she did receive were marked as estimates, if not always as clearly as might have been necessary for her to be made aware of the situation.

There the decision of the TRB was to deny the petition but to provide Petitioner with 120 days from the date of the new WRB bill to make payment arrangements for the balance due.

CONCURRED:

T. David Williams, Esq., Chair

Nancy Kammerdeiner

Joseph Ferla

LaVon Wells-Chancy, CPA