

May 8, 2025

IN RE: East Rentals

Docket No: 35WRMERZV9746

Statement of Record:

- 1) East Rentals (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (hereafter "TRB") on July 5, 2022. The petition requested a review of a bill charged to the petitioner's account for the property at 516-18 E. Washington Lane, Philadelphia by the Philadelphia Water Revenue Bureau (hereafter "WRB").
- 2) A 1st level public hearing before a Hearing Officer was held on December 16, 2022. The Hearing Officer continued the matter for the Petitioner to establish vacancy.
- 3) The matter was re-listed on April 10, 2023, the hearing officer adjusted the usage from January 30, 2015 to January 21, 2020 to 1000CFPM and abated 100% of the penalties.
- 4) Petitioner appealed that decision and requested a full hearing before the Tax Review Board.
- 5) The case was scheduled for January 29, 2024 and was administratively continued.
- 6) The case was then listed for July 2, 2024. After hearing the evidence and testimony, the Tax Review Board ordered WRB to "reduce the usage for 1/30/2015 to 4/17/19 to 1000CCFM. Additionally, the Board abated 100% of the penalties, including those previously paid from 4/17/2019 to the present. This amount is then to be applied to principal". (Exhibit A-15). The Board wanted to review the amount to be due before issuing the final determination and listed the case for status. The status date was listed for July 30, 2024.
- 7) At this July 30th, listing, the Board requested "1. City to place in dispute status and restore water until the Board issues its final determination, 2. City to provide account/payment summary showing payments, charges, and adjustments from 1/30/2015 to present. 3. For Petitioner to provide Proof of payments made in 2024". (Exhibit A-17).
- 8) The case was again put in a status and listed again for September 10, 2024. This case was administratively continued due to the City's early dismissal due to the Presidential debate being in Philadelphia.
- 9) On October 15, 2024 and after more testimony, the Board requested that "WRB to adjust appeal period from 1/3/15-5/25/22 to 1000 CCFS a month. Additionally, waive 100% of penalties and provide the Board with a summary of payments Petitioners has made since 1/30/15". (Exhibit-21).
- 10) The case was listed on November 7, 2024 and at that time, the WRB testified that the adjustment was not made. As such, the Board granted the petition in its entirety, abating 100% of principal and penalties.
- 11) The City has filed an appeal with the Philadelphia Court of Common Pleas.

Findings of Fact:

July 2, 2024 Hearing

- 1) Petitioner is represented by Ms. Teresa McCaskill, a renter of the property with proper authorization to speak on behalf of the property located at 516-18 E. Washington Lane, Philadelphia. (Exhibit A-1).
- 2) At issue is the billing period from January 30, 2015 through April 17, 2019. At the time of the hearing, the principal balance, including service and usage, totaling \$ 12,518.50, penalty \$571.48, and lien fees \$274.35 for a total of \$13,364.33. (Notes of Testimony, Dated 7/2/24;Pg. 6-7; Ln. 23-3).
- 3) Petitioner described the property as mixed- use residential, with the “basement area zoned for childcare. The daycare has not been open since March 2019 during COVID ...the rest of the building, it’s for two people on the third floor...two individual guys and the rest is, like, storage and my office is on the second floor”. (Id.; Pg. 17-18; Ln. 13-5).
- 4) Petitioner explained that sometime in 2019 or 2020 she called the Water Department] as she noticed there were no readings on the meter. “They changed the ERT three times because the first time they came out, they said it wasn’t reading. The second time they said, ‘Well, if you don’t get any readings or if something isn’t normal y, you need to call us back’. I called them back and I said, I got a high reading... That’s when the \$12,000 bill came in”. (Id.; Pg. 11-12; Ln. 17-5).
- 5) Petitioner argued that “if the meter is no good or if the meter is outdated or if the meter is old, giving faulty readings, how can you get an accurate finding from the ERT”? (Id.; Pg. 16; Ln. 6-10).
- 6) The witness for WRB testified during the period in question, the only charges that appeared on the bills were stormwater usage and service due to the faulty ERT. The “zero- usage period was from 1/30/2015 though...4/19. (Id.; Pg. 22; Ln. 9-10).
- 7) WRB witness also explained that the charges were “estimated” and the ERT was changed on “January 20, 2015 and April 17th 2019 and again on January 21, 2020.” (Id.; Pg. 23; Ln. 12-13).
- 8) The witness continued, explaining per the system, Petitioner “never called or made contact with PWD until after the period of dispute...[but] during the period of dispute, PWD did notify the Petitioner regarding the zero usage estimate bills. The witness also noted that the Petitioner’s payments were “sporadic”. (Id.; Pg 24)
- 9) Petitioner also explained she did not realize that she had only been paying estimated usage bills however, she had made multiple calls to PWD and multiple payments. She explained that she paid “large lump sums of money for down payments, to get a payment agreement... \$4,500, \$750, I had to pay \$1,400. I had to pay \$2,700.” (Id.; Pg. 26; Ln. 16-22).
- 10) TRB Board Chair Weiss noted, “I see that there are large payments on the account...large dollars”. (Id.; Pg. 28; Ln. 23-24).

At the conclusion of this hearing, the Board “directed the Water Revenue Bureau to reduce the usage for the period of 1/30/2015 to 4/17/ 2019, based on 1,000 cubic feet per month. So that reduces the usugae for that period in question. We are also directing that all penalties paid and unpaid for the same period of time be abated. Any monies that you have paid in that went to penalties are to be reapplied to the principal amount due. (Id.; Pg. 32-33; Ln. 22-7).

The Board also wanted to see the total before issuing its final determination and listed it for status on July 30, 2024.

July 30, 2024 Hearing

- 11) The City's Attorney read into the record, that for the period of time from January 30, 2015 to April 17, 2019, "the amount of \$1,336.68 was credited in the penalty waiver, and the rebill was done in the amount of \$3,635.85 being owed for that period." (Notes of Testimony, Dated 7/30/24;Pg. 6; Ln. 10-13).
- 12) The City Attorney also explained that the Petitioner's new "total unpaid balance is \$12,654.28". (Id.; Pg. 7; Ln. 15-16). An additional, \$6,959.72 is overdue for the periods outside of the dispute period, "starting after April 17, 2019". (Id.; Pg. 8; Ln. 15-16).
- 13) The City notes this outstanding balance was caused by the lack of payment, including the one for the month of July "which resulted in the shutoff because the case was removed from dispute, period, after the TRB rendered a judgement".
- 14) The Board reasserted that the Board did not reach a determination.
- 15) The Petitioner also asserted that she made an online payment.

The Board rendered another order and noted that this case was under advisement for additional information. The Board explained that as this matter was under advisement, the city is directed to "continue this in dispute status so that her water is not shut off. This has not been resolved...[also] going to ask for the city to provide an account summary of charges and payments from 2015 through 2024... Ms. McCaskill, we're going to ask you to provide us with all your proof of payments for 2024." (Id.; Pg. 17; Ln. 15-19).

October 15, 2024 Hearing¹

At the conclusion of this status, the Board issued an order, noting "WRB to adjust appeal period from 1/30/15 to 5/25/22 to 1000CCFs a month. Additionally, waive 100% of penalties and provide the Board with a summary of payments Petitioner has made since 1/30/15."(Exhibit A-21).

November 7, 2024 Hearing

- 16) Upon calling this case, the City Attorney explained that the "rebilling from that October 15th hearing, where it was continued in order for that to take place, has not taken place...it is not reflecting in the account as of yet. But the abatements have been honored. They just aren't reflecting.... It just has not been calculated. (Notes of Testimony, Dated 11/7/24; Pg. 5-6; Ln. 23-10).

After discussing this matter, the Board granted this petition, explaining "We've discussed the circumstances. We've discussed the fact that there have been several hearings. We have been waiting. We have made some requests waiting for the City. There-they seem to have had difficulty in complying on more than one occasion. Ms. McCaskill has been here every single time. She has provided us with

¹ While there are no notes of testimony, the TRB contacted the court reporter directly and was informed that there were "annos and audio". The TRB has requested these documents and they are due to be completed on May 13, 2025.

documentation over and over and over again that matches, to the large degree, the City's own records regarding hundreds and hundreds of dollars in payments to the City for this water bill. And at this point in time, it is the decision of the Board to grant this petition and abate the bill in its entirety". (Id.; Pg. 11; Ln. 8-23).

Conclusions of Law:

In an administrative hearing before the Tax Review Board, the burden of proof rests with the petitioning party to provide substantial evidence to establish that the Petition of Appeal should be granted. The taxpayer bears the burden to prove that the City's assessment is incorrect or warrants adjustment. See *City of Philadelphia v. Litvin*, 235 A.2d 157, Pa Super.1967.

The Board determined that the Petitioner did in fact meet her burden, as the argument put forward in the July 2, 2024 hearing was persuasive. The Board concluded that the readings during the period in dispute seems unreasonable and high—with no explanation from WRB regarding how they estimated or came to the amount due. Specifically, the Board found the fact the ERT change in 2014 never worked or registered usage, followed by another ERT change in 2019 that registered extremely high usage for the next 8 months, just to be changed again; indicates that the City is relying solely on estimates for its billing. The Board finds in this case, the Petitioner's efforts- constant communication with the City and large bill payments—showed good faith in a situation where she was unable to rely on the equipment installed by the City in two separate instances.

Further, the City's failure to comply with the Board's orders after several attempts to reduce the bill to amount that was reasonable, led the Board to grant this petition; abating all principal and penalties.

Concurred:

Paula Weiss, Chair

John O'Connor

Ryan Boyer