

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Delaine Andrews	:	
	:	
v.	:	C-2012-2283978
	:	
PECO Energy Company	:	

**ORDER GRANTING ADMISSION OF COMPLAINANT’S  
LATE-FILED LETTER EXHIBIT AND LEASE**

I. BACKGROUND

At a further hearing held in this matter on July 17, 2012, I stated my authority to request additional information for the record, in accordance with 52 Pa. Code §5.404. One of the items mentioned was the lease between Complainant and the tenant at the 4839 Haverford Avenue, 2<sup>nd</sup> floor, Philadelphia, PA, property, during the time period in question. Tr. 54.

At the conclusion of the hearing, Complainant was given ten (10) days, or until July 27, 2012, to submit a copy of the above-mentioned lease, and to supplement the record in response to a Respondent exhibit (updated PECO Exhibit No. 1) which had been admitted without objection, but which had not yet been received by the Complainant. Respondent was given ten (10) days, or until August 6, 2012, in which to object to Complainant’s proposed exhibits. Tr. 91-96.

On July 26, 2012, I received a letter from Complainant in response to (updated) PECO Exhibit No. 1 and a copy of a lease, which was incomplete but which included the names of the landlord (Complainant) and tenant, the property location (4839 Haverford Avenue, 2<sup>nd</sup> floor, Philadelphia, PA 19139), and the length of the lease (November 1, 2009 to October 31,

2010). The lease also included terms regarding responsibility for utility service. Copies of the July 26, 2012, letter and the lease, as described above, are attached hereto and identified as Complainant Exhibit Nos. 1 and 2, respectively.

By letter dated August 3, 2012, Respondent objected to admission of the lease into the record on the grounds of relevancy. In Respondent's view, the lease was not probative as to the essential issue, which was whether the Complainant initiated the request with PECO for service at her 4839 Haverford Avenue, 2<sup>nd</sup> floor, property, in November 2009. Respondent further responded that, if anything, the lease highlighted the point that the dispute over responsibility for the unpaid usage at 4839 Haverford Avenue, 2<sup>nd</sup> floor, was a landlord-tenant or private contractual matter that did not belong before the Commission. Respondent did not set forth any objections to admission of the July 26, 2012 letter.

This matter is ready for a ruling as to whether Complainant Ex. Nos. 1 and 2 should be admitted. The record has not yet closed so no reopening pursuant to 52 Pa. Code §5.571 is required.

## II. DISCUSSION

I will first address the issue of whether Complainant Exhibit No. 1 should be admitted. As noted above, Respondent did not specifically object to the letter exhibit, and as I find it generally to be relevant to the amount due and owing to Respondent, it will be admitted.

Next, I will address whether Complainant Exhibit No. 2 should be admitted. As noted above, the presiding officer is authorized to request additional information for the record pursuant to 52 Pa. Code §5.404. Furthermore, with regard to relevancy, I note that the lease does serve to confirm Complainant's ownership of the property in question during the applicable time period. This ownership was not confirmed through Respondent's own records. Tr. 87-88. Section 1529.1(b) of the Public Utility Code, 66 Pa. C.S. §1529.1(b), which may be applicable to this case, states, in part, as follows:

. . . In the case of individually metered dwelling units, unless notified to the contrary by the tenant or an authorized representative, an affected public utility shall list the account for the premises in question in the name of the owner, and the owner shall be responsible for the payment for utility services to the premises.

Also, while the lease includes certain terms with regard to responsibility for utility service, these terms could potentially support findings or conclusions as to remedies available to a party or parties pursuant to 66 Pa. C.S. §103(c).

Accordingly, I conclude that the lease set forth in Complainant Exhibit No. 2 should be admitted.

### III. ORDERING PARAGRAPHS

THEREFORE,

IT IS ORDERED:

1. That Complainant Exhibit Nos. 1 and 2, attached to this Order, are hereby admitted into the record of this proceeding as late-filed exhibits.

2. That a briefing order will be issued, to be followed by an order closing the record after the time has passed for filing briefs.

Date: August 15, 2012

Kandace F. Melillo  
Kandace F. Melillo  
Administrative Law Judge

C-2012-2283978 - DELAINE ANDREWS v. PECO ENERGY COMPANY

*Revised 5/7/12*

DELAINE ANDREWS  
P O BOX 3211  
HARRISBURG PA 17105  
267.342.8004

DANA PIRONE CAROSELLA ESQUIRE  
STEVENS & LEE  
620 FREEDOM BUSINESS CENTER  
SUITE 200  
KING OF PRUSSIA PA 19406  
610.205.6056

DeLaine Andrews  
P.O. Box 3211  
Harrisburg, PA 17105  
July 26, 2012

DeLaine Andrews

Complainant

Vs

DOCKET NO C-2012-2283978

PECO Energy Company  
Honorable Judge Kandace F. Melillo, Esquire  
Pennsylvania Public Utility Commission  
400 North Street  
Commonwealth Keystone Building, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

TO THE Honorable Judge Kandace F. Melillo

Pursuant to your order allowing me to forward a copy of the lease for the tenant at 4839 Haverford Ave during the relevant period I have attached the lease for Robert Clark. The lease was an annual lease which renewed annually (Exhibit A). Although I couldn't find my check book to determine when I have made additional payments in 2012 I did review PECO exhibit 1 for 7828 Chelwynde Ave and it appears to demonstrate that I only owed 75 dollars prior to the account transfer from 52<sup>nd</sup> Street and Haverford Ave and that my bill was only 101.64 on 7/15/2011 and that I paid 101.64 on 8/1/2011 which brought my account current for 7828 Chelwynde Ave and the 2012 payment for approximately 118 dollars covered most of the bill for 7828 Chelwynde Ave for 2012 (exluding the transferred accounts).

cc: PECO'S Attorney

Sincerely,  
  
DeLaine Andrews

# RESIDENTIAL LEASE AGREEMENT

THIS LEASE IS DATED 11-1-2009, 2009 BETWEEN,

Landlord: Delaine Andrews Name(s)

Agent for Landlord: \_\_\_\_\_ Name(s)

AND

Resident(s): Robert Clark Name(s)

Landlord agrees to rent to Resident the "Leased Unit", on the following terms and conditions:

1. ADDRESS OF THE LEASED UNIT.

4839 Haverford Ave  
2nd floor  
Phila, PA 19139

2. TERM.

Length of Lease: Annual  
Lease Begins On: 11/1/2009  
Lease End On: 10/31/2010

3. RENT.

Rent For Lease Term: 6000  
Rent For Each Month: 500  
Pro-rated Rent: \_\_\_\_\_

Resident agrees to pay Rent to Landlord, or its agent. Rent must be paid to Landlord for each month by the first (1st) day of that month at the Rental Office located at PO Box 3211 Harrisburg PA 17105  
OR 1326 N. 1st St Harrisburg PA 17105  
If any or all of the rent is not paid by the fifth (5th) day of that month, Resident shall pay a late fee of \$ 40. There will be a \$ — returned check charge, as additional rent.

4. SECURITY DEPOSIT. Resident has delivered to Landlord a security deposit of \$ 400 as security that Resident will perform its obligations under this Lease. Landlord may use all or a portion of the security deposit to pay for loss or damages due to Resident's breach of this Lease or for any damages to the Leased Premises. Any loss or damage not covered by the security deposit shall be payable by Resident as additional rent. Resident may not apply the security deposit towards the rent for the Leased Unit. Landlord may retain the security deposit if Resident fails to make full rental payments as required by this Lease, or if Resident vacates prior to the end of the Lease Term. To be eligible for return of the security deposit after vacating the Leased Unit, Resident must give Resident's new address to landlord in writing.

5. UTILITIES. Landlord will pay for the following utilities: Water Only. All other utilities shall be at Resident's expense. Resident covenants that utilities shall be placed in the name of Resident and shall be promptly paid when due.

6. USE AND OCCUPANCY.

(a) Resident will personally use and continuously occupy the Leased Unit as a private dwelling for Resident and Resident's immediate family or co-tenants consisting of 2 persons. The following persons may reside in the Leased Unit:

It is a breach of this Lease to have any person(s) residing in the Leased Unit who is not listed in this Paragraph.

(b) Resident will not remove or attempt to remove Resident's personal property from the Leased Unit without first paying to Landlord all rent due for the balance of the term of this Lease.

(c) Resident will notify Landlord in advance if Resident intends to be away from the Leased Unit for more than ten (10) days.

(d) Resident will comply with all relevant statutes, laws, ordinances and regulations. Resident will not keep anything in the Leased Unit or conduct any activity

which is dangerous or might increase the danger to the unit or to other occupants in the building.

(e) Resident will not act in any way which unreasonably disturbs the peace and quiet of other residents or of Management.

7. **POSSESSION.** Landlord will make a good faith effort to make the Leased Unit available to Resident on the day this Lease is scheduled to begin. If any delay does occur, no rent will be due until the Leased Unit is made available to Resident. This Lease will be terminated at Resident's written request if the Leased Unit is not available within ten (10) days after the date this Lease is scheduled to begin. Termination of the Lease by Resident is Resident's only remedy. Landlord will not be responsible for any inconvenience, loss or damage in the event of any delay in making the Leased Unit available to Resident.

8. **SUB-LETTING.** Resident may not sublease, transfer or assign this Lease or sublease the Leased Unit. Resident may not permit the Leased Unit to be occupied by any person other than those named in Paragraph 6(a).

9. **ALTERATIONS.** Resident may not remodel or make any structural changes to the interior or exterior of the Leased Unit, or attach or remove any carpeting or fixtures without first obtaining Landlord's written permission. When this Lease terminates, the Lease Unit must be returned to the original condition.

10. **CONDITION OF LEASED UNIT; REPAIR OF DAMAGE.** Resident has examined the Leased Unit, and is satisfied with its present physical condition. Resident agrees to maintain the Leased Unit during the term of this Lease, and to return possession of the Leased Unit at the end of the term of this Lease, in the same condition as it is on the date of this Lease, except for ordinary wear and tear. If the Leased Unit is damaged or repairs are required Resident will promptly notify Landlord in writing. Landlord agrees to perform the repairs with reasonable promptness after written notice from Resident, and to pay for repairs required due to ordinary wear and tear. Resident agrees to pay as additional rent the cost of the repair of damage caused by Resident or other permitted occupants or visitors of Resident. No repairs to the Leased Unit may be made by anyone except Landlord's employees, agents or contractors. Landlord is not responsible for any inconvenience or loss due to necessary repairs to the Leased Unit, interruption of any utilities services, or for any other reason beyond Landlord's control.

11. **CONDEMNATION.** In the event the Leased Unit or any part of it is condemned, or voluntarily transferred instead of by condemnation proceedings, this Lease will automatically terminate as to the condemned portion. In the event of any termination due to condemnation of a part of the Leased Unit, rent payable under this Lease will be reduced proportionately. In the event that the Leased Unit becomes uninhabitable due to the condemnation, the Lease will terminate entirely when Resident pays all rent due to the date that the Leased Unit becomes uninhabitable. Resident will not have any right to any award paid to Landlord by the condemning authority.

12. **CASUALTY.** There will be no abatement of rent in the event of fire or other casualty. However, if in Landlord's

judgment the Leased Unit becomes uninhabitable due to damage by fire or other casualty not caused by Resident or other permitted occupants of the Leased Unit or their visitors, this Lease will terminate when Resident pays all rent due to the date that Resident vacates the Leased Unit. Landlord is not responsible for any loss, damage or inconvenience sustained by Resident due to fire or other casualty.

13. **RESIDENT'S PERSONAL PROPERTY AND INSURANCE.** Landlord will not be responsible for any damage to Resident's personal property. For that reason, Resident must obtain insurance to protect his or her personal property. It will be considered a breach of this Lease to fail to obtain personal property insurance. Any personal property left in the Leased Unit after Resident has vacated or has been evicted shall be considered abandoned, and Landlord may dispose of it in any manner without notice to Resident. Landlord's cost of disposal shall be payable by Resident as additional rent.

14. **ACCESS.** Landlord and anyone authorized by Landlord may enter the Leased Unit after first notifying Resident. In the event of any emergency, Landlord may enter the Leased Unit without giving Resident advance notice. Resident must obtain written approval from Landlord to add or change any lock. Resident must provide to Landlord keys for any additional or changed locks.

15. **PETS.** Resident shall ~~not keep any pet or pets in~~ the Premises in violation of the provisions of this Paragraph. All pets must be approved by Landlord in writing before such pets are acquired by Resident and must be registered with Landlord's office. Resident may not keep any pet which is not acceptable to Landlord. All pets must be on a leash whenever they are not in the Premises and Resident shall at once properly dispose of any mess or waste created by such pet. While Landlord shall not be required to consent to any pet, if Landlord shall consent to Resident's keeping such pet in the Premises, Resident shall pay to Landlord as additional Rent hereunder the monthly pet charge set forth in Pet Addendum hereof, for each lease or portion thereof during which a pet is maintained by Resident. If the keeping of such pet shall unreasonably disturb other tenants or shall create a nuisance or become unacceptable to Landlord, Landlord may give Resident twenty (20) days written notice of the revocation of Landlord's consent, in which event Resident shall remove the pet from the development within such twenty-day period. Resident shall be in default under this Lease, and Landlord shall have the right to terminate this Lease or exercise any other remedy provided in this Lease, if Resident shall keep a pet in the Premises without Landlord's consent or after Landlord's consent has been revoked.

16. **DEATH DURING LEASE.** In the event that a Resident, or any other person who signed this lease, die during the term of this lease, the following rights and rules shall apply:

(a) If the Resident lived alone, and no other person or persons signed the lease, the Resident's representative will remain obligated under this lease for three (3) months following the month during which death occurred. The Resident's representatives must send written notice to the Landlord if they intend to terminate this lease after said

which is dangerous or might increase the danger to the unit or to other occupants in the building.

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(h) Landlord's costs of enforcing this Lease and collecting any amounts due hereunder including legal fees, whether or not suit is instituted, shall be payable by Resident as additional rent.

21. **WATERBEDS.** Not Permitted.

22. **KEY RETURN.** Apartment keys must be returned upon vacating apartment. If not, a charge of \$25.00 will be imposed.

23. **VACATING LEASED UNIT.** At the time that Resident vacates the Leased Unit, Resident must notify Landlord and must return all keys.

24. **NO WAIVER BY LANDLORD.** If at any time Landlord does not exercise any of its rights under this Lease, Landlord does not forfeit its right to exercise them at a later date. Acceptance of past due rent is not a waiver of Landlord's right to enforce this Lease.

25. **SUBORDINATION.** This Lease and Resident's rights under this Lease are subordinate to all existing and any future financing on the Leased Unit or Property. Resident consents to all such financing and to any sale of the Leased Unit or property subject to this Lease, and authorizes Landlord to sign any papers on behalf of Resident which are necessary to confirm the terms of this Paragraph.

26. **APPLICATION.** Landlord may terminate this Lease if any of the information provided by Resident in its Application for this Lease was inaccurate.

27. **RELEASE OF LANDLORD.** Landlord shall not be responsible for any injury, property damage or loss sustained by Resident or any other person on or in connection with the Leased Unit or Property. Resident agrees to release Landlord of responsibility for any damage, loss or injury caused by any other person occupying the Property, or Landlord or Landlord's agents or employees which results from any of their acts or failure to act. All claims against Landlord for any damage, loss or injury are hereby expressly waived by Resident.

28. **MAINTENANCE WORK.** Work will be done in your apartment in your absence unless you specify that you must be present, said specifications accompanying each maintenance request. If you specify that you must be present, a date and time is to be agreed upon between you and our maintenance staff.

29. **NOISE/DISTURBANCES.** No resident shall make/permit any disturbing noises to be made within the building by himself/herself, members of their family, guests, agents, servants, or licensees, or do or permit anything to be done that will interfere with the rights, comforts or conveniences of other tenants. Television, radios, musical instruments, etc. shall not be played on the premises between the hours of 10:30 PM to 8:30 AM the following morning if the same shall disturb or any other occupants of the building.

30. **SEPARABILITY.** If one or more of the provisions of this Lease are determined to be invalid, the remainder of this Lease shall remain in effect.

31. **LEASE CHANGES.** The terms and conditions of this Lease may only be changed if in writing signed by both Landlord and Resident. No oral changes or agreements are permitted.

32. Attached are riders, addenda, and amendments.

LANDLORD:

As Agent for \_\_\_\_\_

Debra Anne Anderson

RESIDENT(S):

K. C. Hobbs