

Docket Number: 4228

DVR PHILLY, LLC

Kenneth W. Lee, Esquire

VS.

PHILADELPHIA REGIONAL PORT AUTHORITY
a/k/a PHILAPORT

~~Colette Pete, Chief Counsel~~
Francis X. Crowley, Esquire
Samuel M. Ventresca, Esquire

March 23, 2021

Plaintiff filed Complaint/Statement of Claim, proof of mailing and filing fee. Amount of Claim: \$24,212.50+.

March 25, 2021

Board issued Acknowledgment letter requesting response from Defendant and forwarding a copy of the Claim to Attorney General.

April 2, 2021

Attorney General filed acknowledgment of complaint/statement of claim. Receipt of same acknowledged April 2, 2021.

April 5, 2021

Plaintiff filed an acceptance of service of the complaint/statement of claim acknowledged by Defendant.

April 15, 2021

Plaintiff transmitted via facsimile a letter advising that an extension until May 25, 2021 has been granted to Defendant to respond to its statement of claim.

April 15, 2021

Board issued letter to Plaintiff, with copy to Defendant acknowledging extension between the parties.

April 20, 2021

Plaintiff filed via U.S. Mail a letter advising that an extension until May 25, 2021 has been granted to Defendant to respond to its statement of claim.

May 24, 2021

Defendant filed Preliminary Objections and Memorandum of Law as well as Proposed Order.

May 24, 2021

Board forwarded letter to Plaintiff, with copy to Defendant, advising of rules for filing response.

June 23, 2021

Plaintiff filed Answer to Preliminary Objections and Brief.

July 16, 2021

Defendant filed a Reply Memorandum of Law in Support of its Preliminary Objections.

July 16, 2021

Plaintiff transmitted via facsimile a letter advising that they are in receipt of Defendant's Reply Memorandum of Law in Support of its Preliminary Objections and that they intend to file a Sur Reply by July 23, 2021.

July 19, 2021

Plaintiff filed via US mail a letter advising that they are in receipt of Defendant's Reply Memorandum of Law in Support of its Preliminary Objections and that they intend to file a Sur Reply by July 23, 2021.

July 23, 2021

Plaintiff filed a Sur-Reply Brief to the Preliminary Objections.

August 3, 2021

Plaintiff transmitted via facsimile a letter on behalf of both parties requesting this matter be stayed until September 30, 2021 (including pending preliminary objections).

August 5, 2021

Plaintiff filed via U.S. Mail a letter on behalf of both parties requesting this matter be stayed until September 30, 2021 (including pending preliminary objections).

August 6, 2021

Board forwarded letter staying case to and including September 30, 2021.

September 30, 2021

Plaintiff transmitted via facsimile a letter on behalf of both parties requesting this matter be stayed until October 31, 2021 (including pending preliminary objections).

October 1, 2021

Board forwarded letter staying case to and including October 31, 2021.

October 4, 2021

Plaintiff filed via U.S. mail a letter on behalf of both parties requesting this matter be stayed until October 31, 2021 (including pending preliminary objections).

November 2, 2021

Plaintiff transmitted via facsimile a letter on behalf of both parties requesting this matter be stayed until December 31, 2021 (including pending preliminary objections).

November 4, 2021

Board forwarded letter staying case to and including December 31, 2021.

November 6, 2021

Plaintiff filed via U.S. Mail a letter on behalf of both parties requesting this matter be stayed until December 31, 2021 (including pending preliminary objections).

December 30, 2021

Plaintiff transmitted via facsimile a letter on behalf of both parties requesting this matter be stayed until February 28, 2022 (including pending preliminary objections).

January 3, 2022

Plaintiff filed via U.S. Mail a letter on behalf of both parties requesting this matter be stayed until February 28, 2022 (including pending preliminary objections).

January 4, 2022

Board forwarded letter staying case to and including February 28, 2022.

February 16, 2022

Plaintiff transmitted via facsimile a letter on behalf of both parties requesting this matter be stayed until March 31, 2022 (including pending preliminary objections).

February 18, 2022

Board rendered an Order. Order as follows: "**AND NOW**, this 18th day of February, 2022, upon consideration of the request by all parties to this matter to stay the matter for one month, and upon consideration of the parties' previous monthly requests for stay originating on August 3, 2021, the Board of Claims hereby **STAYS** this matter **INDEFINITELY**, until the parties request that the Board lift the stay." Copy forwarded to Plaintiff and Defendant.

February 22, 2022

Plaintiff filed via U.S. Mail a letter on behalf of both parties requesting this matter be stayed until March 31, 2022 (including pending preliminary objections).

February 25, 2022

Defendant filed acceptance of service of Order dated February 18, 2022. Receipt of same acknowledged February 23, 2022.

February 25, 2022

Plaintiff filed acceptance of service of Order dated February 18, 2022. Receipt of same acknowledged February 22, 2022.

November 7, 2022

Plaintiff transmitted via facsimile a letter requesting the Board to cause the stay to be discontinued and proceed with the determination of Defendant's Preliminary Objections.

November 9, 2022

Plaintiff transmitted via U.S. mail a letter requesting the Board to cause the stay to be discontinued and proceed with the determination of Defendant's Preliminary Objections.

December 7, 2022

Board rendered Opinion and Order. Order as follows: "AND NOW, this 7th day of December, 2022, it is hereby **ORDERED** and **DECREED** that the stay issued by the Board on February 18, 2022 is hereby lifted. The parties should proceed accordingly." Copy forwarded to Plaintiff and Defendant.

December 14, 2022

Plaintiff filed acceptance of service of Opinion and Order dated December 7, 2022. Receipt of same acknowledged December 9, 2022.

December 15, 2022

Defendant filed acceptance of service of Opinion and Order dated December 7, 2022. Receipt of same acknowledged December 13, 2022.

December 29, 2022

Board rendered an Opinion and Order. Order as follows: **"AND NOW**, this 29th day of December, 2022, upon consideration of the Statement of Claim filed by DVR Philly, LLC ("DVR"); Defendant Philadelphia Regional Port Authority's (PhilaPort) Preliminary Objections and Memorandum of Law; DVR's Answer to the Preliminary Objections and Brief of DVR in Opposition to the Preliminary Objections; PhilaPort's Reply Memorandum of Law in Support of its Preliminary Objections; and Sur-Reply Brief of DVR in Opposition to the Preliminary Objections; and in accordance with the foregoing, it is hereby **ORDERED** and **DECREED** that the preliminary objections of Defendant, Philadelphia Regional Port Authority, aka PhilaPort, to the Statement of Claim made by DVR Philly, LLC are **SUSTAINED**. The Claim is **DISMISSED** with prejudice." Copy forwarded to Plaintiff and Defendant.

January 12, 2023

Plaintiff filed acceptance of service of Opinion and Order dated December 29, 2022. Receipt of same acknowledged January 6, 2023.

January 19, 2023

Defendant filed acceptance of service of Opinion and Order dated December 29, 2022. Receipt of same acknowledged January 17, 2023.

February 1, 2023

Plaintiff filed a copy of its Petition for Review as filed in Commonwealth Court.

February 27, 2023

Plaintiff filed a copy of its Designation of Reproduced Record and Statement of Issues Pursuant to Pa.R.C.P. 2154(a) as filed in Commonwealth Court.

April 3, 2023

Commonwealth Court filed notice of filing of petition for review - 74 CD 2023.

April 14, 2023

Plaintiff filed copy of docketing statement as filed in Commonwealth Court.

May 3, 2023

Board filed original file and description of all documents and other material comprising the record from the Board of Claims to Commonwealth Court. Copy of certified list forwarded to Plaintiff and Defendant.

May 30, 2023

Plaintiff filed copy of its motion for extension of briefing schedule as filed in Commonwealth Court.

July 18, 2023

Plaintiff filed copy of its reproduced record and brief as filed in Commonwealth Court.

August 28, 2023

Plaintiff filed copy of Reply Brief of Petitioner/Appellant as filed in Commonwealth Court.

September 14, 2023

Plaintiff filed copy of Answer of Petitioner/Appellant to Application of Respondent/Appellee to File Sur-Reply Brief as filed in Commonwealth Court.

January 11, 2024

Commonwealth Court Order dated January 9, 2024 filed. Order as follows: "AND NOW, this 9th day of January, 2024, it is hereby **ORDERED** that Pennsylvania Board of Claims' (Board) December 29, 2022 opinion and order is VACATED. It is FURTHER ORDERED that this is REMANDED to the Board, with instructions that it issue an amended opinion and order within 30 days that adjudicates the specific argument made by Respondent Philadelphia Regional Port Authority a/k/a PhilaPort in its preliminary objections. Jurisdiction relinquished."

February 7, 2024

Board rendered Amended Opinion and Order. Order as follows: "**AND NOW**, this 7th day of February, 2024, upon consideration of the Statement of Claim filed by DVR Philly, LLC ("DVR"); Defendant Philadelphia Regional Port Authority's (PhilaPort) Preliminary Objections and Memorandum of Law; DVR's Answer to the Preliminary Objections and Brief of DVR in Opposition to the Preliminary Objections; PhilaPort's Reply Memorandum of Law in Support of its Preliminary Objections; and Sur-Reply Brief of DVR in Opposition to the Preliminary Objections; and in accordance with the foregoing, it is hereby **ORDERED** and **DECREED** that the preliminary objections of Defendant PhilaPort to the Statement of Claim made by DVR are **OVERRULED**. Defendant PhilaPort shall have twenty (20) days from the date of this Order to file an answer to the Statement of Claim." Copy forwarded to all parties of record.

February 15, 2024

Plaintiff filed acceptance of service of Amended Opinion and Order dated February 7, 2024. Receipt of same acknowledged February 9, 2024.

February 23, 2024

Defendant filed a joint Stipulation for Extension of Time to file its answer to statement of claim.

February 23, 2024

Board forwarded letter, via facsimile and U.S. Mail, to Defendant, with copy to Plaintiff, granting extension of time.

March 14, 2024

Commonwealth Court returned file.

March 27, 2024

Defendant filed a second joint Stipulation for Extension of Time to file its answer to statement of claim.
