IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Reading Area Water Authority	:	
	:	
v.	:	No. 1307 C.D. 2013
	:	
Harry Stouffer,	:	Submitted: June 20, 2014
	:	
Appellant	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE MARY HANNAH LEAVITT, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE COHN JUBELIRER **FILED: September 10, 2014**

Harry Stouffer appeals, pro se, from the Order of the Court of Common Pleas of Berks County (trial court) entering judgment in favor of Reading Area Water Authority (Water Authority) under Section 19 of the act commonly known as the Municipal Claims and Tax Liens Act (MCTLA)[1] for $7,461.37. On appeal, Mr. Stouffer argues, *inter alia*, that he pled a sufficient affidavit of defense and that the doctrines of res judicata and collateral estoppel bar Water Authority's municipal lien claim (Lien Claim).

[1] Act of May 16, 1923, P.L. 207, as amended, 53 P.S. § 7271. Section 19, in relevant part, states "[i]f an affidavit of defense [is] filed, a rule may be taken for judgment for want of sufficient affidavit of defense." Id.

This appeal arises from a longstanding dispute between Mr. Stouffer and Water Authority over how much money, if any, Mr. Stouffer owes for water services. Mr. Stouffer's property has neither received water from Water Authority nor has it had a water meter since 1992, when his water service was turned off. (Affidavit of Defense ¶¶ 11-12.) On August 12, 2011, Water Authority filed suit against Mr. Stouffer for, *inter alia*, breach of contract and unjust enrichment (Prior Action) and requested $5,412.91 for unpaid water services in the form of stand by fees, plus costs. (See Ex. E to Affidavit of Defense, Water Authority's Pre-Arbitration Memorandum (Pre-Arbitration Memorandum) at 1-2 (stating, *inter alia*, that it "charges a monthly 'stand by' fee related to maintaining the water service connected to the property" and that Mr. Stouffer owed stand by fees in the amount of $5,412.91).) A hearing on Water Authority's Prior Action was held before a panel of arbitrators on July 17, 2012 and, following the hearing, the arbitrators ruled in favor of Mr. Stouffer and held that Mr. Stouffer owed $0 to Water Authority (Arbitration Decision). Water Authority did not appeal the Arbitration Decision.[2]

On March 22, 2012, prior to the hearing before the panel of arbitrators, Water Authority filed the Lien Claim for unpaid water services totaling $11,277.12, including costs and attorney's fees. (Lien Claim ¶¶ 4, 6-7.) Two days after the Arbitration Decision, on July 19, 2012, Water Authority obtained a writ of scire facias seeking judgment on the Lien Claim and advising Mr. Stouffer to file an affidavit of defense. (Writ of Scire Facias, July 19, 2012.) The writ of scire facias

[2] It is unclear whether the Arbitration Decision has been docketed as a judgment.

was personally served on Mr. Stouffer on January 18, 2013.[3] (Sheriff's Return.) Mr. Stouffer filed preliminary objections and counter-claims, which the trial court struck. Mr. Stouffer then filed his affidavit of defense on April 4, 2013 claiming, among other things, that Water Authority had already fully litigated its claim in the Prior Action before the panel of arbitrators, the arbitrators entered an award in Mr. Stouffer's favor, Mr. Stouffer owed "$0.00" to Water Authority, Water Authority did not appeal the Arbitration Decision, the Arbitration Decision became final, and Water Authority was attempting to circumvent the Arbitration Decision through the writ of scire facias. (Affidavit of Defense ¶¶ 6-7, 9-10, 14-15.)

Thereafter, on April 24, 2013, Water Authority filed a Motion for Judgment for Want of Sufficient Affidavit of Defense (Motion), alleging that the Lien Claim was securing payment for $7,461.37 in fees incurred *after* Water Authority initiated the Prior Action and that Mr. Stouffer did not specifically deny the factual averments for those costs, thereby admitting their accuracy. (Motion ¶¶ 5, 7-9, 14-15, 18.) Water Authority asserted that, for these reasons, res judicata did not preclude the grant of its Motion and Lien Claim for that amount. (Motion ¶¶ 10, 15, 18-19.) Mr. Stouffer filed a response to the Motion (Response).

The trial court granted Water Authority's Motion on June 7, 2013 and entered judgment in favor of Water Authority for $7,461.37. Mr. Stouffer appealed and, at the trial court's direction, filed a Concise Statement of the Errors Complained of on Appeal pursuant to Rule 1925(b) of the Pennsylvania Rules of Appellate Procedure,

[3] It appears from the record that Water Authority obtained a reissued writ of scire facias on November 5, 2012, which was then personally served on Mr. Stouffer on January 18, 2013. (Docket No. 12 04684; Sheriff's Return.)

Pa. R.A.P. 1925(b) (1925(b) Statement).[4] In its opinion, pursuant to Pa. R.A.P. 1925(a) (1925(a) Opinion), the trial court reasoned that its award was not claim precluded by the Prior Action because the stand by fees awarded had accrued after the Arbitration Decision and Water Authority had withdrawn its claim for the unpaid fees at issue in the Prior Action without prejudice.[5] (Trial Ct. Op. at 2.) The trial court also reasoned that Water Authority had the legal authority to charge Mr. Stouffer with stand by fees despite the lack of running water on his property because Mr. Stouffer had not effectively abandoned his property by detaching the service pipes and paying the separate abandonment fee. (Trial Ct. Op. at 3-4.) This matter is now ready for this Court's review.

"In ruling on the sufficiency of the affidavit, we are aware that the only documents properly before the court are the writ of scire facias, the affidavit of defense, and the replies thereto." General Municipal Authority of the Borough of Harvey's Lake v. Yuhas, 572 A.2d 1291, 1294 n.1 (Pa. Super. 1990). "Thus, if there are omissions in the affidavit of defense, the court is not permitted to go outside the

[4] In his 1925(b) Statement, Mr. Stouffer argued, *inter alia*, that, in granting the Motion, the trial court erred in disregarding the unappealed Arbitration Decision that found in Mr. Stouffer's favor and awarded Water Authority no damages. (1925(b) Statement ¶¶ 1, 2, 4.) Mr. Stouffer also asserted that the "law of estoppel" and doctrine of stare decisis precluded the trial court's award of $7,461.37 in damages to Water Authority. (1925(b) Statement ¶¶ 1, 2.) Mr. Stouffer further claimed that he had complied with every answer requested by the trial court by filing documents and making argument. (1925(b) Statement ¶ 3.) In addition, Mr. Stouffer noted that he had no water service or water meter at his premises and that the trial court erred in awarding $7,461.37 to Water Authority. (1925(b) Statement ¶¶ 1, 4.)

[5] The trial court stated that the Water Authority requested judgment for $12,847.28 under its Lien Claim. (Trial Ct. Op. at 2.) Although the original Lien Claim was for $11,277.12, (Lien Claim ¶ 7), not $12,847.28, this Court assumes that this increased amount reflects the stand by fees and interest that accrued for the time period between Water Authority filing the Lien Claim on March 22, 2012 and the trial court entering judgment for Water Authority on June 7, 2013.

record and consider extraneous materials." Id. Because the only documents that the trial court could review were, in effect, the pleadings, we will review the trial court's Order granting the Motion as we would an order granting a motion for judgment on the pleadings.

> A motion for judgment on the pleadings should be granted only where the pleadings demonstrate that no genuine issue of fact exists and the moving party is entitled to judgment as a matter of law. In reviewing [a] trial court's decision to grant judgment on [the] pleadings, the scope of review of [the] appellate court is plenary; [the] reviewing court must determine if the action of [the] trial court was based on clear error of law or whether there were facts disclosed by [the] pleadings which should properly go to [a] jury. An appellate court must accept as true all well-pleaded facts of the party against whom the motion is made, while considering against him only those facts which he specifically admits. Neither party can be deemed to have admitted either conclusions of law or unjustified inferences.
>
> . . . . Only when the moving party's case is so clear and free from doubt such that a trial would prove fruitless will an appellate court affirm a motion for judgment on the pleadings.

Newberry Township v. Stambaugh, 848 A.2d 173, 174 n.1 (Pa. Cmwlth. 2004) (citations omitted).

On appeal, Mr. Stouffer first argues that his affidavit of defense against the Lien Claim was sufficient and that he submitted written documents and exhibits to support his assertions that, *inter alia*, res judicata and collateral estoppel barred the Lien Claim. Water Authority responds that because Mr. Stouffer "fail[ed] to specifically deny any of the factual averments in the Lien [Claim], other than the legal conclusion that any amount is owed" or specifically challenge its accounting of what stand by fees are owed, those factual averments are admitted as true pursuant to

Section 35 of the MCTLA.[6] (Water Authority's Br. at 7.) Water Authority contends that these admitted facts support the trial court's grant of its Motion.

"A municipal lien is a charge, claim or encumbrance on the property placed to secure payment of a debt and does not affect the owner's right to possess or control the property." North Coventry Township v. Tripodi, 64 A.3d 1128, 1132 (Pa. Cmwlth. 2013). "The [MCTLA] provides for a specific, detailed and exclusive procedure that must be followed to challenge or collect on a municipal lien. . . ." City of Philadelphia v. Manu, 76 A.3d 601, 604 (Pa. Cmwlth. 2013). Under the MCTLA, "[a]ll . . . municipal liens . . . lawfully imposed or assessed on any property in this Commonwealth . . . shall be and they are hereby declared to be a lien on said property." Section 3(a)(1) of the MCTLA, 53 P.S. § 7106(a)(1).

Under Section 19 of the MCTLA, a court may enter judgment in favor of the party requesting the municipal lien "for want of sufficient affidavit of defense." 53 P.S. § 7271. "An affidavit of defense . . . must be certain and definite." Borough of Fairview v. Property Located at Tax Index No. 48-67-4, 453 A.2d 728, 730 n.3 (Pa. Cmwlth. 1982) (citation omitted). The defendant must also show "how the[] charges [are] inaccurate or otherwise defective." General Municipal Authority of the Borough of Harvey's Lake v. Yuhas, 572 A.2d 1291, 1294 (Pa. Super. 1990). In Yuhas, the defendants acknowledged that they had to pay sewer charges, but challenged the amount they were being charged. Id. at 1293-94. To support their challenge, the defendants attached numerous documents to their affidavit of defense,

[6] 53 P.S. § 7189. Section 35, in relevant part, states, "[t]he facts averred by either party, and not denied in the answer or replication of the other, shall be taken as true in all subsequent proceedings in the cause, without the necessity for proof thereof." Id.

but did not explain how these documents established that the charges were erroneous. Id. at 1294 & n.1. The trial court found that the affidavit of defense was "indefinite, equivocal, vague and evasive," and, therefore, entered judgment for the sewer authority. Id. at 1293. On appeal, the Superior Court affirmed, holding that the affidavit of defense was insufficient because "none of the material supplied indicates how the specific charges are inaccurate" and that it was "unable to discern how [the documents] support[ed] [the defendants'] defense, as [defendants] have included [documents] which contain no explanation." Id. at 1294 & n.1.

Here, in his affidavit of defense, Mr. Stouffer stated, among other things, that "[Water Authority] has not provided [him] with water service since 1992." (Affidavit of Defense ¶ 11.) Mr. Stouffer also stated that he "does not have a water meter attached to his house, and[,] therefore[,] any claims for post-judgment service charges are speculative" and "demand[ed] strict proof of any claims otherwise." (Affidavit of Defense ¶ 13.) In addition to these factual averments, Mr. Stouffer cited to the Arbitration Decision in which the arbitrators held that Mr. Stouffer did not owe Water Authority for unpaid water costs in the form of stand by fees, which stated that "the substance of [Water Authority's] . . . Lien Claim has already been fully and fairly . . . adjudicated by the Berks County Court of Common Pleas," and that he "owes [Water Authority] $0.00." (Affidavit of Defense ¶¶ 6-7, 14-15.) Mr. Stouffer asserted that Water Authority cannot circumvent the unappealed Arbitration Decision by filing the writ of scire facias on the Lien Claim. (Affidavit of Defense ¶¶ 9-10.) In his response to the Motion, Mr. Stouffer points out that, in paragraph 6 of the Motion, Water Authority does not contest the facts contained in the affidavit of defense, including a statement that Mr. Stouffer does not owe Water Authority any money. (Response, May 31, 2013, at 1 (citing Motion ¶ 6 and Affidavit of Defense ¶ 14).)

Mr. Stouffer also indicated in his Response that he pleaded numerous defenses, including the "[l]aw of estoppel" and "[r]es judic[at]a," and that he "denie[d] . . . [Water Authority's] accounting and the relevance [of charges going back to 2005] in light of the [A]rbitration [D]ecision . . . in the amount of $0.00." (Response at 5-6 (emphasis omitted).)

After reviewing "the writ of scire facias, the affidavit of defense, and the replies thereto," Yuhas, 572 A.2d at 1294 n.1, we conclude that Mr. Stouffer has pled certain and definite factual and legal averments that explain why he believes the costs Water Authority alleges he owes "[are] inaccurate or otherwise defective," id. at 1294. Unlike the affidavit of defense found to be insufficient in Yuhas, Mr. Stouffer's affidavit of defense does explain why he does not owe the Water Authority for stand by fees. The fact that Mr. Stouffer did not refute each charge individually is not consequential when his primary argument is that the Arbitration Decision bars the Lien Claim in its totality. Furthermore, there is no evidence in the record that the Water Authority modified its Lien Claim after the Arbitration Decision to remove the costs incurred prior to that decision before Mr. Stouffer filed his affidavit of defense. Thus, Mr. Stouffer's affidavit of defense was in response to the *full* Lien Claim, which requested stand by fees incurred both before and after the filing of the Prior Action and issuance of the Arbitration Decision. Additionally, Mr. Stouffer expressly claimed that "any claims for post-judgment service charges [were] speculative" given that he no longer had "a water meter attached to his house."[7] (Affidavit of Defense ¶

[7] We note that, in our initial review of the record, it appears that the size of a water meter may affect the amount of a person's stand by fees. (See RAWA Schedule of Meter Rates at 1 (stating that "[b]ills will be rendered quarterly and will consist of a fixed service charge based on the size of [the] meter . . . .").)

13.) Accordingly, we hold that Mr. Stouffer pled a "certain and definite" affidavit of defense to the Water Authority's Lien Claim, Borough of Fairview, 453 A.2d at 730 n.3; therefore, the Motion should not have been granted.

In addition to granting Water Authority's Motion and entering judgment in Water Authority's favor pursuant to Section 19 of the MCTLA, the trial court also addressed in its 1925(a) Opinion the merits of some of Mr. Stouffer's defenses raised in the affidavit of defense, particularly his argument that res judicata precluded the entire Lien Claim, as well as certain additional issues included in Mr. Stouffer's 1925(b) Statement. The trial court concluded that there was no merit in those defenses or the other issues asserted in the 1925(b) Statement. Because the trial court addressed those issues and Mr. Stouffer and Water Authority have briefed those issues, we will now address these issues on appeal.

Mr. Stouffer argues that the trial court erred in granting judgment in Water Authority's favor. He asserts that res judicata bars the *entire* Lien Claim because the Arbitration Decision entered judgment in Mr. Stouffer's favor on Water Authority's claim for unpaid water costs in the form of stand by fees in the Prior Action. Mr. Stouffer asserts that Water Authority's claim for stand by fees has already been litigated before the arbitration panel; Mr. Stouffer prevailed; and nothing has changed regarding the water service, or the lack thereof, to his property since the Arbitration Decision.

In contrast, Water Authority argues that res judicata, in the form of claim preclusion, does not bar the Lien Claim because it is seeking unpaid water costs in the

form of stand by fees that were incurred *after* the Arbitration Decision.[8] Water Authority equates the present matter to the situation in May Department Stores Company v. Board of Property Assessment, Appeals, and Review of Allegheny County, 272 A.2d 862, 866-67 (Pa. 1971), wherein our Supreme Court held that a judicial valuation or assessment of a piece of property in the preceding triennium did not bar a subsequent judicial valuation or assessment of the property in the next triennium. Water Authority further argues that this case is akin to Merecede Center, Inc. v. Equibank, 518 A.2d 1291, 1296 (Pa. Super. 1986), in which the Superior Court held that one action for a wrongful dishonor of drafts on a requested letter of credit did not bar a subsequent action where new requests for a letter of credit were made and the requests were wrongfully denied. Based on these cases, Water Authority contends that the fact that the Prior Action involved unpaid stand by fees for an earlier time period does not bar Water Authority from seeking another claim for unpaid stand by fees that accrued during a different time period.

Res judicata may take the form of claim preclusion or collateral estoppel. Tobias v. Halifax Township, 28 A.3d 223, 226 & n.7 (Pa. Cmwlth. 2011). For res judicata, in the form of claim preclusion, to apply "four conditions must concur: (1) identity of the thing sued upon or for; (2) identity of the cause of action; (3) identity of the persons and parties to the action; and (4) identity of the quality or capacity of the parties." Id. at 226. "Where a final judgment is entered by a court of competent jurisdiction, a plaintiff's cause of action is merged in the judgment if he wins or

[8] Water Authority argues that the $7,461.37 judgment represents the fees and costs accrued after the Arbitration Decision. (Water Authority's Br. at 8.) This Court notes that the trial court determined that $5,412.91 had accrued from January 2005 until the July 2012 arbitration hearing and that $7,461.37 in fees and costs had accrued from July 17, 2012 until June 7, 2013. (Trial Ct. Op. at 2.)

barred if he loses, and the scope of the merger or bar includes not only matters that actually were litigated but also all matters that could have been litigated but were not." Carroll Township Authority v. Municipal Authority of City of Monongahela, 603 A.2d 243, 249 (Pa. Cmwlth. 1992). The application of res judicata and collateral estoppel is a question of law and this Court's review of that issue is plenary. Pennsylvania Board of Probation and Parole v. Pennsylvania Human Relations Commission, 66 A.3d 390, 395 (Pa. Cmwlth. 2013).

It is undisputed that the parties and their quality of capacity are the same between the two proceedings in this matter. Thus, the contested issue is whether the cause of action and the identity of the thing sued for are the same. "Generally, a cause of action will be considered identical when the subject matter and the ultimate issues are the same in both proceedings." Tobias, 28 A.3d at 226. The identity of the thing sued for are "the subject matters; or the things in dispute; or the matters presented for consideration." McCandless Township v. McCarthy, 300 A.2d 815, 820 (Pa. Cmwlth. 1973). "[W]here a subsequent action is brought to recover damages from injuries during a different period of time, the 'thing sued for' generally is not the same, and claim preclusion does not apply." Carroll Township Authority, 603 A.2d at 249. Moreover, an *in personam* action, such as a contract action, may be distinguished from an *in rem* action, such as an action seeking a lien against a property. Matternas v. Stehman, 642 A.2d 1120 (Pa. Super. 1994). In Matternas, the Superior Court held that a prior mechanics' lien action did not claim preclude a subsequent contract action. Id. at 1123-24. The Superior Court reasoned that the lien's *in rem* nature and the contract action's *in personam* nature made the causes of action and the things sued for different. Id. at 1123.

Here, Water Authority filed a lien in the amount of the stand by fees for a period of time not covered by the Prior Action, from July 17, 2012 to June 7, 2013. During this time period, Water Authority continued to charge Mr. Stouffer stand by fees and Mr. Stouffer continued not to pay them. Thus, each time Mr. Stouffer did not pay those fees, Water Authority sustained an additional injury and damages accrued. Moreover, Water Authority's Lien Claim was an *in rem* action against Mr. Stouffer's property and the Prior Action was an *in personam* contract action. Because of the *in rem* and *in personam* natures of the Lien Claim and the Prior Action, respectively, we conclude that the causes of action in this matter are different. Accordingly, res judicata in the form of claim preclusion does not bar the Lien Claim.

This does not end our inquiry, however, because Mr. Stouffer also argues collateral estoppel bars the trial court's award on the Lien Claim because the Prior Action resolved the issue of Mr. Stouffer's liability for stand by fees. Mr. Stouffer contends that the Prior Action before the panel of arbitrators resulted in a final judgment on the merits in Mr. Stouffer's favor, Water Authority was a party to the prior action, Water Authority had a full and fair opportunity to litigate the issue of standby fees in the Prior Action, and Water Authority did not appeal the Arbitration Decision.

The doctrine of collateral estoppel has been subsumed by res judicata, but it can be asserted independently thereof and does not require the identity of the causes of action. Matternas, 642 A.2d at 1125. Under collateral estoppel, "a final judgment forecloses relitigation in a later action involving at least one of the original parties, of an issue of fact or law which was actually litigated and which was necessary to the original judgment." Clark v. Troutman, 502 A.2d 137, 139 (Pa. 1985).

> Where the second action between the same parties is [based] upon a different claim or demand, the judgment in the prior action operates as an estoppel in the second action only as to those matters in issue that (1) are identical; (2) were actually litigated; (3) were essential to the judgment . . .; and (4) were 'material' to the adjudication.

McCandless Township, 300 A.2d at 820-21. As previously stated, whether collateral estoppel applies is a question of law subject to plenary review. Pennsylvania Board of Probation and Parole, 66 A.3d at 395.

On July 17, 2012, the panel of arbitrators entered judgment for Mr. Stouffer and held that he is not liable for unpaid water costs in the form of stand by fees beginning in January 2005 to that date, although without any explanation or reasons. Water Authority filed its Lien Claim to collect unpaid water costs in the form of stand by fees for as far back as January 2005. (Lien Claim, Ex. B at 3.) However, the trial court held that the Water Authority could assert its Lien Claim for the period following the Arbitration Decision because the Water Authority withdrew its claim for that earlier period without prejudice. (Trial Ct. Op. at 2.) We agree with the trial court that Water Authority was not precluded from asserting a claim for the stand by fees incurred *after* the July 17, 2012 Arbitration Decision because Mr. Stouffer's liability for those fees has not yet been litigated.[9]

[9] Notwithstanding its withdrawal without prejudice of its Lien Claim for the charges incurred prior to the Arbitration Decision, (Trial Ct. Op. at 2), Water Authority maintains that these charges remain due and res judicata does not apply to those charges, but indicates that "for the purposes of the [M]otion, [Water Authority] is only seeking the charges clearly due following the [A]rbitrat[ion] [D]ecision." (Water Authority's Br. at 6 n.1.) However, we note that the issue of whether Mr. Stouffer owes Water Authority stand by fees for the period from January 2005 until the July 17, 2012 Arbitration Decision was actually litigated before the arbitrators in the Prior Action, was essential to the judgment, and was material to the adjudication. Unlike res judicata, collateral estoppel does not require the identity of the causes of action. Matternas, 642 A.2d at 1125.

However, we note that in asserting a lien in the amount of $7,461.37 for the stand by fees, penalties, interest, etc. incurred after July 17, 2012, Water Authority appears to have relied, partly, upon the value of the *entire* Lien Claim, including the compounding interest thereon, and not only the amounts of stand by fees actually accrued between July 17, 2012 to June 7, 2013. Mr. Stouffer's affidavit of defense specifically challenged the calculation of "any claims for post-judgment service charges" as "speculative" given that he no longer had "a water meter attached to his house." (Affidavit of Defense ¶ 13.) Additionally, in his response to the Motion, he "denie[d] . . . [Water Authority's] accounting and the relevance [of charges going back to 2005] in light of the [A]rbitration [D]ecision . . . in the amount of $0.00." (Response at 6 (emphasis omitted).) In his brief to this Court, Mr. Stouffer again notes that there is no water meter at his premises and that to charge $7,500 for ten months of service was "not [a] fair and reasonable rate[.]" (Mr. Stouffer's Br. at 11.) Having concluded that Mr. Stouffer's affidavit of defense was sufficient, the amount of Water Authority's Lien Claim is an outstanding issue of fact that must be resolved by the trial court on remand.

Accordingly, we agree with the trial court that Water Authority is not precluded from asserting, in the present matter, its Lien Claim for the amount of stand by fees accrued after the July 17, 2012 Arbitration Decision; however, because Mr. Stouffer's Affidavit of Defense was not insufficient, we reverse the order granting judgment to Water Authority on that basis. We remand this matter to the trial court for further proceedings to consider Mr. Stouffer's challenges to Water Authority's

calculation of the stand by fees alleged to have incurred between July 17, 2012 and June 7, 2013.[10]

RENÉE COHN JUBELIRER, Judge

[10] Mr. Stouffer also asserts that: (1) he was deprived equal treatment of the law as guaranteed by the Fourteenth Amendment to the United States Constitution because he did not get his day in court; (2) a paragraph in the trial court's Order misspelled his name and, therefore, the Order was invalid; and (3) Water Authority misapplied the writ of scire facias in this matter because Water Authority provided no services to Mr. Stouffer, the basis for a municipal claim enforceable by municipal lien, and the Arbitration Decision found in Mr. Stouffer's favor, awarding Water Authority no damages for its claim for stand by fees. With regard to the first issue, Mr. Stouffer did have the opportunity to present his case, and the trial court's Order disposing of the Lien Claim on a procedural basis did not deprive him of that right. Moreover, because we are remanding this matter, Mr. Stouffer will get the opportunity to further challenge Water Authority's Lien Claim. Regarding the second issue, the misspelling of Mr. Stouffer's name in one paragraph of the trial court's Order is harmless error. Finally, Mr. Stouffer's last issue essentially reformulates his res judicata argument and, because the Prior Action was an *in personam* action that involved one time period and the Lien Claim was an *in rem* action that involved a different time period, Water Authority was not precluded from filing a writ of scire facias. Additionally, although Mr. Stouffer states that the trial court erred in relying on Water Authority's charge of stand by fees to establish a municipal claim and "denies he knew about any such stand by fees," (Mr. Stouffer's Br. at 14), Water Authority's damages in the Prior Action were based on Mr. Stouffer's non-payment of stand by fees, (Pre-Arbitration Memorandum at 1-2), and Mr. Stouffer argues throughout his brief that Water Authority is impermissibly attempting to relitigate issues decided by the panel of arbitrators. Accordingly, we conclude that none of these arguments require the entry of judgment in Mr. Stouffer's favor.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Reading Area Water Authority	:	
	:	
v.	:	No. 1307 C.D. 2013
	:	
Harry Stouffer,	:	
	:	
Appellant	:	

O R D E R

NOW, September 10, 2014, the Order of the Court of Common Pleas of Berks County is hereby **REVERSED**, and this matter is **REMANDED** for further proceedings in accordance with the foregoing Opinion.

Jurisdiction relinquished.

RENÉE COHN JUBELIRER, Judge