

MINUTES OF THE CALDWELL RENT REVIEW BOARD

May 16, 2018

Meeting called to order 7:10PM

Mr. Galante read the portion of the Open Public Meeting Act

ROLL CALL

PRESENT: Ms. Evans, Mr. Galante, Ms. Pemrick and Mr. Linden

ALSO PRESENT: Mr. Joseph Angelo, Esq (standing in for Mr. Russo)

ABSENT: Councilman Cole, Ms. D'Ambolia and Mr. Russo, Esq.

Pledge of Allegiance

MINUTES:

February 21, 2018

Minutes of the Rent Review Board meeting accepted and approved.

Ms. Evans, Mr. Galante, Ms. Pemrick and Mr. Linden voted in the affirmative.

NEW BUSINESS:

Letter to Mr. Lang from Board notifying him that his complaint was dismissed in entirety without prejudice to file a new complaint on issues other than AC

Ms. Pemrick asked if the Board had made a decision on sending this letter. The minutes from February 21st state "that the Board advised not to send this after discussion".

Ms. Pemrick advised the Board that she tried to locate Mr. Lang and she could not locate him. The letters that went out in August and again in November were never received by herself, Ms. Carpenter or Ms. Zascone. Ms. Pemrick discussed certified mail and the mail carrier delivering the mail would sign the green card and send it back to the Borough. After speaking to the Post Office if a mail carrier is to accept a letter they must sign it so their signature is clear and can determine the signature is of the mail carrier.

Should it be the policy of the Board that all Board decisions pertaining to complaints should also be in written form and sent to complainants

Mr. Galante responded that he has been reading the chapters thoroughly and he has noticed that it is inconsistent and he feels we should review it again. Ms. Pemrick responded that we use to do this in the days of the former chairman who would write in layman's terms the decision of the Board. The decision was reviewed at the next meeting and then it was sent out to the tenants. Ms. Pemrick said we should consider this issue when we are reviewing the ordinance. Ms. Pemrick will take this as an action item to look back at Catherine Daly's decisions and pull one. Mr. Galante understands that Ms. Pemrick would like to group all the standard practices together so that it makes sense.

Ms. Pemrick read the suggested revisions to consider:

- Determination without hearing whether or not the landlord has violated this chapter and a determination made by the Board within 30 working days. At the very least the tenants should get 30 days after receipt of the landlord's response, to prepare for a hearing. The Board needs to decide if we still want this predetermination and if so, then this 30 day

timespan must occur in every case. If the Boards wants to delete this predetermination then we need to revise to give the tenants 30 days from receipt of response to prepare for hearing.

- Taking Pemrick Zascone complaint as an example:
 - ✓ It was delivered Friday, July 14, and received by Lisa the following Monday, July 17th.
 - ✓ Per the ordinance the Executive Secretary was to notify the landlord of such tenant, in writing, within 5 working days from the date complaint was received and this was done.
 - ✓ Because the Executive Secretary has to prepare a substantial notification in addition to providing the complaint, let us assume the complaint was mailed to landlord on Friday, July 21 and landlord received it on Monday, July 24.
 - ✓ Within 10 working days from the date of notification the landlord was to file with the Board its answer including all supportive documents, etc. and serve a copy of such answer upon the complaining tenant. Service was to be certified mail return receipt request, and by ordinary mail. This meant that by August 7th, tenants should have had landlord's response.
 - ✓ Tenants received from Lisa by email the landlord's response on Friday, August 12 and the hearing was August 16, 4 days is not enough time for tenants to prepare their case.

Ms. Pemrick advised the Board that the reason she had requested an adjournment at the time is because every lawyer that she contacted could not possibly do anything, such as adequately review the landlord response nor even show up with 4 days' notice.

Invitation to Mr. Guiliano to speak on Section 182-2 of the Ordinance

Mr. Guiliano was not able to make the meeting. The Secretary will invite him to the next meeting.

Ms. Pemrick feels that the Board should have a workshop where they go through the complaint procedures and decide what we want to do, how much time the respondent should get before a hearing and make it the same for everyone.

Mr. Linden responded that he would like to point out that there are two different kinds of complaints in the ordinance there is the rent increase one which you are quoting from section 10 which has its own standard and I guess we don't have hearings necessarily right now and then the 17 violations which require a hearing which is maintenance of services. He questioned what the authority for a rent board can make a quasi-judicial determination as to whether someone should or should not have their rent decreased. Mr. Angelo responded that if it is in the ordinance then the Board does have authority.

Counsel to advise Board members whether or not they can vote on the Meeting Minutes if they were not present at the Meeting.

Mr. Angelo responded that the answer to this is *No, you can't vote on the minutes, you would have to abstain*. The exception is if you were to go back to the recording and listen to it than you would be able to vote on the minutes at the next meeting. Ms. Pemrick responded that her concern is we voted on the minutes at the last meeting which some of the members were not present and they were able to vote. Mr. Galante responded that our conundrum was we would have never been able to approve these minutes because the two members that were at that meeting had resigned before the minutes were approved. Ms. Pemrick continued that as far as Robert's Rules are concerned she feels that the minutes should be approved according to the two rules that our lawyer indicated *either you are present at the meeting and you can approve the minutes or you can listen to the tape of that meeting and then vote at the next meeting*.

Ms. Pemrick made a motion that the Rent Review Board follows Roberts Rules of Order, seconded by Ms. Evans. Ms. Evans, Mr. Galante, Ms. Pemrick and Mr. Linden approved the motion.

**OLD BUSINEES:
Ordinance Review**

Mr. Angelo advised the Board that they do not write the ordinance that the Governing Body does and they make the decisions.

Ms. Pemrick made a recommendation to have a workshop at the next meeting to give the Board a month to look over very carefully, preferably the ordinance having to do with complaints and possibly make an excel worksheet of what you do in this case and here is what you do in that case and so on. Putting this in one place will be easier for someone to follow.

Ms. Pemrick would like to table the Old Business of the Ordinance Review until we are able to have a workshop, seconded by Mr. Galante. Ms. Evans, Mr. Galante, Ms. Pemrick and Mr. Linden approved the motion.

Mr. Linden asked for some guidance from Mr. Angelo on the Maintenance of Service. I know you said other towns have it in there but that doesn't necessarily mean that it is proper. He feels like the Board is becoming a landlord tenant court and I don't know that we want to do that and if we actually have the authority to adjudicate whether someone is violating a terms of a lease.

Mr. Angelo responded that there are two ways that someone can bring a complaint to the Board one is obviously a rent increase higher than allowed by the ordinance and Maintenance of Service as long as this is in the ordinance you have the authority until someone challenges it. Ms. Pemrick responded that there was a case before the Board in regards to a surcharge for Capital Improvement. There were many hearings the Board ruled that in this particular case it was really Maintenance. The Landlord did go to court and the town prevailed at every court level.

The Board decided on a workshop at the next meeting unless a complaint is filed or Mark Guiliano can meet.

Ms. Pemrick responded that we may not always agree as a Board but the things we deliberate on are very important to the quality of life and the town of Caldwell. Even the issue of Maintenance of Service's especially in our large apartment buildings insures a certain quality of life in those buildings which maintains a certain standard of living.

Ms. Pemrick made a motion that the next meeting is a workshop to go over the review of an ordinance and in the case of a speaker and or a complaint is filed the workshop will be the next meeting, seconded by Mr. Linden. Ms. Evans, Mr. Galante, Ms. Pemrick and Mr. Linden approved the motion.

Mr. Galante made motion to adjourn meeting at 8:03p.m., seconded by **Ms. Evans.**
All in favor.