

STATE OF NORTH CAROLINA BEFORE THE PROPERTY TAX COMMISSION
COUNTY OF WAKE SITTING AS THE STATE BOARD OF
 EQUALIZATION AND REVIEW
 15 PTC 0453

IN THE MATTER OF:
THE APPEAL OF:

PENNY S. ROWLAND

FINAL DECISION

from the decision of the
Randolph County Tax
Commission denying an
application for homestead
disability property tax
exclusion for tax year 2015.

This matter came on for hearing before the Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina at its regularly scheduled session of hearings on Thursday, June 23, 2016, pursuant to the appeal of **PENNY S. ROWLAND** (“Appellant”). In this matter, Appellant appeals the decision of the Randolph County Tax Commission (“County Tax Commission”) denying an application for homestead disability property tax exclusion of tax year 2015.

Chairman William W. Peaslee presided over the hearing with Vice Chairman Terry L. Wheeler and Commission members David A. Smith, Jack C. Morgan III and Alexander A. Guess participating.

The Appellant appeared at the hearing *pro se*. Aimee C. Scotton, Associate Randolph County Attorney, appeared at the hearing on behalf of Randolph County.

STATEMENT OF CASE

The Appellant, **Penny S. Rowland**, is a resident of Randolph County, and lives at 602 Brentwood Court, Asheboro, North Carolina 27203. On August 28, 2015, the Appellant filed an application for disabled exclusion (i.e. N.C. Gen. Stat. 105-277.1) for tax year 2015 and she also filed an appeal with the County Tax Commission challenging the Randolph County Tax Assessor’s decision that the application was untimely. By notice mailed on September 9, 2015, the County Tax Commission advised the Appellant of its decision to deny the 2015 application for property tax relief as untimely filed. From this decision, the Appellant appealed to the Commission and requested a hearing as pursuant to N.C. Gen. Stat. 105-290.

Randolph County contends that the Appellant’s application should be denied for tax year 2015 since the Appellant filed a late application for the disability exclusion and when the application was incomplete.

ANALYSIS AND ISSUES

Prior to the hearing, the parties did not agree on the issue to be presented to the Commission. The issue considered by the Commission is stated as follows:

Is it appropriate to approve the Appellant's untimely application for property tax disability exclusion that is subject to the provisions of N.C. Gen. Stat. 105-277.1 for tax year 2015?

Under the provisions of N.C. Gen. Stat. 105-282.1(a1), upon the showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, as appropriate." "An untimely application for exemption or exclusion approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed."

FROM THE NOTICE OF APPEAL AND APPLICATION FOR HEARING FILED IN THIS MATTER, THE STIPULATIONS AND EVIDENCE PRESENTED, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. The Appellant, Penny S. Rowland, is a resident of Randolph County, and lives at 602 Brentwood Court, Asheboro, North Carolina 27203.¹
3. On August 28, 2015, the Appellant filed the application requesting property tax exclusion for being disabled.² Prior to filing the application, Appellant was advised by Randolph County Tax Office staff (the "staff") that her application for disability exclusion would be considered as a late filing, but the application would be presented to the County Tax Commission as an appeal of a denial for late application.³
4. After the Randolph County Tax Office received Appellant's application, the Appellant was informed that the application was incomplete because the document was signed by a physician's assistant rather than a licensed physician.⁴
5. On or about September 2, 2015, the County Tax Commission considered Appellant's application.⁵

¹ See Stipulation 3(a) of the Pre-Hearing Order.

² See Stipulation 3(f) of the Pre-Hearing Order.

³ See Stipulation 3(e) of the Pre-Hearing Order.

⁴ See Stipulation 3(g) of the Pre-Hearing Order.

⁵ See Stipulation 3(h) of the Pre-Hearing Order.

6. On September 9, 2015, the County Tax Commission mailed notice of its decision to the Appellant denying the reinstatement of disability exclusion.⁶
7. On October 6, 2015, the Appellant filed a Notice of Appeal with the Commission challenging the County Tax Commission's decision denying the reinstatement of the property tax disability exclusion for tax year 2015 that was filed within the 2015 calendar year.
8. Based on Appellant's testimony and the documentation presented at the hearing, the Appellant's disabilities are just cause to grant her late application for the property tax disability exclusion for tax year 2015.
9. The Commission grants Appellant's late application for property tax disability exclusion for tax year 2015 based on her showing of good cause for failure to make a timely application.

**BASED ON THE FOREGOING FINDINGS OF FACT, THE COMMISSION
CONCLUDES AS MATTER OF LAW:**

1. N.C. Gen. Stat. § 105-277.1 provides for property tax homestead exclusion for elderly and permanently disabled persons. The statute provides in pertinent part that: "A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:
 - a. Is at least 65 years of age or older or totally and permanently disabled.
 - b. Has an income for the preceding year of not more than the income eligibility limit.
 - c. Is a North Carolina resident."
2. The Appellant established that she is entitled to the property tax homestead exclusion as provided in N.C. Gen. Stat. § 105-277.1 for tax year 2015 when:
 - a. The Appellant meets the disability requirement.
 - b. The Appellant meets the income requirement.
 - c. The Appellant meets the residence requirement.
3. N.C. Gen. Stat. § 105-282.1(a1) provides as follows: "Upon the showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, as appropriate." "An untimely application for exemption

⁶ See Stipulation 3(h) of the Pre-Hearing Order, and Exhibit C-3. The County Tax Commission notice letter improperly stated "elderly" exclusion.

or exclusion approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.”

4. In this appeal, the Commission has the authority to approve an application for exemption or exclusion filed after the close of the listing period based on a showing of good cause.
5. Based on its authority, the Commission approves the Appellant’s application for property tax disability exclusion upon the showing of good cause by the Appellant for failure to make a timely application.
6. As such, the Commission approves the late application for property tax disability exclusion for tax year 2015 that was filed after the close of the listing period based on the Appellant’s showing of good cause.

THEREFORE, THE PROPERTY TAX COMMISSION ORDERS, ADJUDGES AND DECREES that the decision of the 2015 Randolph County Tax Commission is revised; and the Randolph County Tax Department is instructed to revise its tax records as necessary to reflect the Findings of Fact and Conclusions of Law of the Commission approving Appellant’s late application for property tax disability exclusion for tax year 2015.

NORTH CAROLINA PROPERTY TAX COMMISSION



William W. Peastee, Chairman

Vice Chairman Wheeler and Commission Members Morgan, Smith and Guess concur.

Entered: 7/18/2016

ATTEST:

Janet L. Shires, General Counsel