

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Robert J. Janousek,
Appellant,

v.

Douglas County Board of Equalization
Appellee

Case No: 11R 473

ORDER FOR DISMISSAL WITH
PREJUDICE

THE COMMISSION BEING FULLY INFORMED IN THE PREMISES, FINDS AND DETERMINES AS FOLLOWS:

1. Section 77-5013 of the Nebraska Statutes provides that the Commission obtains jurisdiction over an appeal when it is timely filed, the *filing fee is timely received and thereafter paid*, and a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from, is timely filed.¹
2. Any action of the County Board of Equalization pursuant to section 77-1502 may be appealed to the Tax Equalization and Review Commission in accordance with section 77-5013 on or before August 24 or on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.²
3. The Douglas County Board did adopt a resolution extending the deadline for hearing protests (Case File), so the filing deadline for tax year 2011 was September 10, 2011.³
4. On September 12, 2011, the Commission received an envelope containing an appeal of the determination of the Douglas County Board of Equalization made pursuant to Neb. Rev. Stat. §77-1502 (Reissue 2009) with a postmark of September 8, 2011. (Case File).
5. An appeal is timely received if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the commission, or received by the commission on or before the date specified by law for filing the appeal.⁴
6. On September 27, 2011, the check for the filing fee submitted with this appeal was returned to the Commission stamped “Return Reason D Closed Account”

¹ See, Neb. Rev. Stat. 77-5013 (2014 Cum. Supp.) *emphasis added*.

² Neb. Rev. Stat. §77-1510 (Reissue 2009).

³ Neb. Rev. Stat. §77-1510 (Reissue 2009).

⁴ Neb. Rev. Stat. 77-5013(2) (2014 Cum. Supp.).

7. The filing fee was not timely filed and thereafter paid as required for the Commission to obtain jurisdiction under Section 77-5013.
8. Parties cannot confer subject matter jurisdiction on a tribunal by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.⁵
9. The Commission does not have jurisdiction to hear the above captioned appeal.

ORDER

IT IS THEREFORE ORDERED THAT:

1. The above captioned appeal is dismissed with prejudice.
2. This decision, if no appeal is filed, shall be certified within thirty days to the Douglas County Treasurer, and the officer charged with preparing the tax list for Douglas County as follows:

Diane L. Battiato
1819 Farnam Street Rm. 400
Omaha, NE 68183-1000

John Ewing
1819 Farnam St., Rm H03
Omaha, NE 68183

as required by Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.).

3. Each party is to bear its own costs in this matter.

SIGNED AND SEALED June 16, 2017

Seal

Nancy J. Salmon, Commissioner

Steven A. Keetle, Commissioner

⁵ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).