

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

James A. Widtfeldt,
Appellant,

v.

Holt County Board of Equalization,
Appellee.

Case Nos: 18A 0115, 18A 0116, 18A 0117
& 18A 0118

**ORDER FOR DISMISSAL WITH
PREJUDICE**

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

I. PROCEDURAL HISTORY

James A. Widtfeldt (the Taxpayer) appealed four decisions of the Holt County Board of Equalization (the County Board).¹ The Commission issued an Order to Show Cause and Notice of Hearing on September 12, 2018, setting a hearing for November 9, 2018, to determine whether it had jurisdiction to hear these appeals. Upon receiving notice that the Taxpayer had appealed that order to the Nebraska Court of Appeals, the Commission issued an Order for Continuance on October 19, 2018. On December 21, 2018, the Nebraska Court of Appeals issued its Mandate dismissing the Taxpayer's appeal. On January 11, 2019, the Commission issued an Order Upon Mandate finding that it should proceed to make a determination as to whether it had jurisdiction to hear these appeals.

On February 21, 2019, the Commission issued an Order to Show Cause and Notice of Hearing (Order), setting a jurisdictional show cause hearing for March 18, 2019. This Order required the Taxpayer to appear, either in person or by telephone, and show cause why a proposed order dismissing the appeal or petition should not be entered. At the time set for hearing, the Commission placed telephone calls to the Taxpayer at the telephone number listed on the Order, as well as two additional phone numbers listed on the Taxpayer's appeal forms. The Taxpayer did not respond or otherwise appear, in person or by telephone, within fifteen

¹ This order relates to the four appeals captioned above. The Taxpayer's three additional appeals for tax year 2018 are addressed in a separate order.

minutes after the time set for the hearing. Brent Kelly, Holt County Attorney, appeared telephonically on behalf of the County Board.

II. ANALYSIS

If a party to a proceeding at a Show Cause Hearing does not appear within fifteen (15) minutes of the time for the hearing, the proposed order may be issued if the record demonstrates that notice has been provided to the party against whom the Order to Show Cause is issued, or a reasonable attempt to provide notice has been issued.²

An Affidavit of Service in the records of the Commission establishes that a copy of the February 21, 2019, Order to Show Cause and Notice of Hearing was served upon the Taxpayer at the address listed on the appeal form by certified mail, postage prepaid. The records of the Commission further establish that the Order and Notice was delivered to the Taxpayer on February 25, 2019.

Notice of the show cause hearing was given to the Taxpayer, but the Taxpayer failed to appear and provide evidence regarding the validity of the appeals. Entry of an order dismissing the appeals, as proposed in the February 21, 2019, Order to Show Cause and Notice of Hearing, is appropriate.

III. CONCLUSION

The Taxpayer's appeals should be dismissed.

ORDER

IT IS ORDERED THAT:

1. The above captioned appeals are dismissed with prejudice.

² 442 Neb. Admin. Code Ch. 5 § 029.03 (6/11).

2. This decision, if no appeal is filed, shall be certified within thirty days to the Holt County Treasurer, and the officer charged with preparing the tax list for Holt County as required by Neb. Rev. Stat. §77-5018 (Reissue 2018)³ as follows:

Timothy Wallinger
Holt County Assessor
PO Box 487
O'Neill, NE 68763

Connie Krotter
Holt County Treasurer
PO Box 648
O'Neill, NE 68763

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

SIGNED AND SEALED: March 19, 2019

Robert W. Hotz, Commissioner

SEAL

James D. Kuhn, Commissioner

³ Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. §77-5019 (Reissue 2018), and other provisions of Nebraska Statutes and Court Rules.