

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Theodore E. Bolamperti,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 18C 0198 & 18C 0199

**ORDER FOR DISMISSAL
WITH PREJUDICE**

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

I. PROCEDURAL HISTORY

A jurisdictional show cause hearing was held on November 27, 2018. Theodore E. Bolamperti (the Taxpayer) appeared telephonically at the hearing. Kristin Lynch, Deputy Douglas County Attorney, appeared telephonically on behalf of the Douglas County Board of Equalization (the County Board). Without objection, the Commission took notice of its case files for the purpose of determining personal jurisdiction and subject matter jurisdiction. The Commission received evidence and heard argument regarding its jurisdiction to hear this appeal.

II. STANDARD OF REVIEW

The Commission obtains jurisdiction over an appeal when the appeal form 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 Any action of the County Board pursuant to Neb. Rev. Stat. §77-1502 may be appealed to the Commission in accordance with Neb. Rev. Stat. §77-5013 on or before August 24, or on or before September 10 if the County Board has adopted a resolution to extend the deadline for hearing protests under Neb. Rev. Stat. §77-1502.² Parties

¹ Neb. Rev. Stat. §77-5013 (2016 Cum. Supp.).

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

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.³

III. ANALYSIS

An appeal to the Commission is timely filed 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 The County Board adopted a resolution extending the deadline for hearing protests,⁵ so the filing deadline for tax year 2018 was September 10, 2018.

On September 17, 2018, the Commission received an envelope containing an appeal of the determination of the County Board made pursuant to Neb. Rev. Stat. §77-1502. The appeal form within the envelope was signed and dated September 13, 2018, and the envelope itself was postmarked September 13, 2018. In the course of the hearing, the Taxpayer acknowledged that the appeal was not mailed until after the deadline. He testified that he was confused about the appeal deadline, mistakenly believing that the deadline was September 15, 2018. We are not unsympathetic to these circumstances, but we have no authority to extend the deadlines established by law. The Commission finds that the appeal was not timely filed.

IV. CONCLUSION

The Commission does not have jurisdiction to hear the above captioned appeal.

ORDER

IT IS THEREFORE ORDERED THAT:

1. The above captioned appeals are dismissed with prejudice.
2. As required by Neb. Rev. Stat. §77-5018 (2016 Cum. Supp.), 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:

³ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

⁴ Neb. Rev. Stat. §77-5013(2) (Cum. Supp. 2016).

⁵ See Case File.

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

SIGNED AND SEALED: November 29, 2018

Seal

Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner