

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Jesse Kincheloe,
Appellant,

v.

Dawson County Board of Equalization,
Appellee.

Case No. 20R 0313

**CORRECTED ORDER FOR DISMISSAL
WITH PREJUDICE**

The Order for Dismissal with Prejudice issued October 30, 2020, incorrectly referred to Dakota County instead of Dawson County in the Findings of Fact. This corrected order is issued pursuant to Neb. Rev. Stat. § 77-5018(2) (Reissue 2018).

THE COMMISSION FINDS AS FOLLOWS:

I. PROCEDURAL HISTORY

The Commission held a jurisdictional show cause hearing on October 5, 2020. Jesse Kincheloe (the Taxpayer) appeared telephonically. Katherine Kuhn, Deputy Dawson County Attorney, appeared telephonically on behalf of the Dawson County Board of Equalization (the County Board). The Commission took notice of its case files, received evidence, and heard argument regarding its jurisdiction to hear this appeal.

II. APPLICABLE LAW

The Commission obtains jurisdiction over an appeal when the Commission has the authority to hear the appeal, the appeal 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

¹ Neb. Rev. Stat. § 77-5013 (Reissue 2018).

Neb. Rev. Stat. § 77-1502.² When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.³

III. FINDINGS OF FACT

~~Dakota~~ Dawson County did not extend the protest hearing deadline.

On August 25, 2020, the Commission received from the Taxpayer an appeal form with the required County Board decision and a check for \$40 for filing fees. These materials were received in an envelope postmarked August 22, 2020. The enclosed County Board decision indicated that the taxable value of the subject property was \$361,105.

The Commission returned the Taxpayer's \$40 check with a letter explaining that the correct filing fee was \$50. The letter stated that the Taxpayer could request a hearing if he believed he had met the requirements for filing an appeal. On September 14, 2020, the Commission received a request for hearing from the Taxpayer along with a check for \$50 for the required filing fee; these materials were received in an envelope postmarked September 10, 2020.

IV. ANALYSIS

If the taxable value of the parcel that is the subject of an appeal is at least \$250,000 but less than \$500,000, the filing fee is \$50.⁴ The County Board did not extend the protest hearing deadline, so the deadline for filing appeals was August 24, 2020.

The Commission does not obtain jurisdiction over an appeal unless the filing fee is timely received and thereafter paid. The \$40 payment submitted before the deadline was \$10 short of the required amount. The subsequent \$50 payment was made after the deadline, and thus, it was not timely received. The Commission does not have jurisdiction to hear the appeal.

V. CONCLUSION

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

THEREFORE IT IS ORDERED:

1. The above captioned appeal is dismissed with prejudice.

² Neb. Rev. Stat. § 77-1510 (Reissue 2018).

³ *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012).

⁴ Neb. Rev. Stat. § 77-5013, LB 4 (effective Feb. 13, 2020). The appeal form filed by the Taxpayer includes a table showing the required filing fees.

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

Vickie Clements
Dawson County Treasurer
700 N Washington Rm B
Lexington, NE 68850

John Moore
Dawson County Assessor
700 N Washington Rm C
Lexington, NE 68850

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

SIGNED AND SEALED: November 3, 2020

Steven A. Keetle, Commissioner

James D. Kuhn, Commissioner