

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW
COMMISSION**

Sheila Staab,
Appellant,

Case No. 23R 0522

v.

**ORDER FOR DISMISSAL
WITH PREJUDICE**

Dawson County Board of
Equalization,
Appellee.

THE COMMISSION FINDS AS FOLLOWS:

I. PROCEDURAL HISTORY

The Commission held a jurisdictional show cause hearing on November 14, 2023 at 9:00 AM. No one appeared on behalf of the Taxpayer. No one appeared on behalf of the Dawson County Board of Equalization (the County Board). The Commission took notice of its case files 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 Neb. Rev. Stat. § 77-1502.² An appellate tribunal, such as the Commission, cannot acquire jurisdiction over an issue if the body from

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

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

which the appeal is taken had no jurisdiction of the subject matter.³ If the body from which an appeal was taken lacked jurisdiction, then the appellate tribunal acquires no jurisdiction. When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.⁴ 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

III. FINDINGS OF FACT

Neither party appeared telephonically as required by the Commission's October 5, 2023, Order to Show Cause and Notice of Hearing.

IV. ANALYSIS

On August 28, 2023, the Commission received an envelope containing an appeal of the determination of the Dawson County Board of Equalization made pursuant to Neb. Rev. Stat. § 77-1502. The envelope did not contain a copy of the decision, order, determination, or action appeal from, or other information that documents the decision, order, determination, or action appealed from as required by Neb. Rev. Stat. § 77-5013(1)(d).

The deadline for filing the appeal for tax year 2023 was 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 77-1502.⁶ The Dawson County Board did not adopt a resolution extending the deadline for hearing protests (Case File), so the filing deadline for tax year was August 24, 2023.

An appeal is timely received if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the

³ See, e.g., *Lane v. Burt Cty. Rural Pub. Power Dist.*, 163 Neb. 1, 77 N.W.2d 773 (1956).

⁴ *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012).

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

⁶ Neb. Rev. Stat. § 77-1510 (Reissue 2018).

Commission, or received by the Commission on or before the date specified by law for filing the appeal.⁷

The August 28, 2023, envelope did not contain a copy of the appealed decision. The envelope containing the Dawson County Board of Equalization's decision was postmarked September 25, 2023, and received by the Commission on September 27, 2023. Therefore, the Commission determines that the appeal was not timely filed or perfected.

Additionally, the Commission's October 5, 2023, Order specifies "[a]n order dismissing the appeal will be issued if Appellant fails to appear at the hearing within fifteen minutes of the time and date listed above." As stated above, the Taxpayer did not appear within fifteen minutes of the date and time for hearing.

V. CONCLUSION

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

THEREFORE IT IS ORDERED:

1. The above captioned appeal is dismissed with prejudice.
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:

Kaitlyn Woltemath
Dawson County Treasurer
700 N Washington Rm B
Lexington, NE 68850

Nic VanCura
Dawson County Assessor
700 N Washington, Rm C
Lexington, NE 68850

⁷ Neb. Rev. Stat. § 77-5013(2) (Reissue 2018).

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

SIGNED AND SEALED: November 20, 2023



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner