

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

Joshua P. Blomstedt,
Appellant,

Case No. 23R 0781

v.

**ORDER FOR DISMISSAL
WITH PREJUDICE**

Hall County Board of
Equalization,
Appellee.

THE COMMISSION FINDS AS FOLLOWS:

I. PROCEDURAL HISTORY

The Commission held a jurisdictional show cause hearing on October 18, 2023 at 1:00 PM. Joshua P. Blomstedt (the Taxpayer) appeared telephonically. Andrew Hoffmeister, Chief Deputy Buffalo County Attorney, appeared telephonically on behalf of the Hall 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 An appellate tribunal, such as the Commission, cannot acquire jurisdiction over an issue if the body from 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

The Taxpayer timely filed his valuation protest with Hall County on June 26, 2023. The appeal documents contained in the Commission's case file show an appeal was signed by Blomstedt on August 20, 2023. The documents were postmarked August 30, 2023, and received by the Commission on September 1, 2023.

Blomstedt stated he received his copy of the County Board's decision during the first week of August 2023. Blomstedt testified he was told his appeal must be filed with the Commission prior to the end of August. Blomstedt admitted he may have heard the deadline date incorrectly or forgotten the deadline. Blomstedt stated he did not mail the appeal documents until August 29, 2023 or August 30, 2023.

IV. ANALYSIS

An appeal or petition 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 or petition.⁶

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

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. § 77-5013(2) (Reissue 2018).

On September 1, 2023, the Commission received an envelope containing an appeal of the determination of the County Board made pursuant to Neb. Rev. Stat. § 77-1502. The 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. The envelope containing the appeal was postmarked August 30, 2023, and received by the Commission on September 1, 2023.

Blomstedt argued he was not provided adequate time to submit his appeal due to not receiving his county board decision until the first week of August. However, based upon his testimony, the latest he would have received his decision would have been August 7. With an appeal deadline of August 24, Blomstedt had at least seventeen days to collect and mail his appeal materials. The Commission does not have equitable power to extend or waive the statutory filing deadlines found in Neb. Rev. Stat. § 77-1510. The Commission finds and determines that the appeal was not timely filed.

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 Hall County Treasurer, and the officer charged with preparing the tax list for Hall County as follows:

Alaina VerPlank
Hall County Treasurer
121 S Pine St, Ste 2
Grand Island, NE 68801

Kristi Wold
Hall County Assessor
121 S Pine St, Ste 1
Grand Island, NE 68801

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

SIGNED AND SEALED: October 31, 2023



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner