

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

Debbie Chaney,
Appellant,

Case No. 23R 1554

v.

Douglas County Board of
Equalization,
Appellee.

**ORDER FOR DISMISSAL
WITH PREJUDICE**

THE COMMISSION FINDS AS FOLLOWS:

I. PROCEDURAL HISTORY

The Commission held a jurisdictional show cause hearing on November 15, 2023 at 10:00 AM. No one appeared telephonically on behalf of the Taxpayer. Jennifer D. Chrystal-Clark, Deputy Douglas County Attorney, appeared telephonically on behalf of the Douglas 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 failed to appear as directed by the Commission's September 28, 2023, Order for Hearing. The County Board moved for dismissal based upon the Taxpayer's failure to appear.

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

On September 18, 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 envelope did not contain a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from. The Douglas County Board adopted a resolution extending the deadline for hearing protests. As September 10, 2023, fell on a Sunday, the filing deadline was extended to September 11, 2023.⁷ The envelope containing the appeal was

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).

⁷ Neb. Rev. Stat. § 49-1203 (Reissue 2021).

postmarked September 14, 2023, and received by the Commission on September 18, 2023. Therefore, the Commission determines the appeal was not timely filed or perfected.

Additionally, the Commission's September 28, 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 Douglas County Treasurer, and the officer charged with preparing the tax list for Douglas County as follows:

John Ewing
Douglas County Treasurer
1819 Farnam St, Rm H02
Omaha, NE 68183

Walt Peffer
Douglas County Assessor
1819 Farnam St, 4th Floor
Omaha, NE 68183

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

SIGNED AND SEALED: November 28, 2023



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner