

**¹BEFORE THE NEBRASKA TAX EQUALIZATION AND
REVIEW COMMISSION**

Scott J. Fasse,
Appellant,

Case No. 24R 1301

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 1, 2024 at 11:00AM. Scott J Fasse (the Taxpayer) appeared telephonically. Landon L. Friesen, 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.² 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

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

adopted a resolution to extend the deadline for hearing protests under Neb. Rev. Stat. § 77-1502.³ 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

On September 11, 2024, the Commission received an appeal form signed September 9, 2024, and the required filing fee. However, within that envelope, documentation of the County Board's decision was not present. On October 9, 2024, the Commission received a letter from the Taxpayer dated October 3, 2024, explaining the circumstances of the filing, as well as providing a copy of the County Board's determination.

Fasse testified that on September 9, 2024, he prepared the appeal form and put the appeal form, filing fee, and a copy of the County Board decision into the envelope and sealed it. Fasse stated his belief that his wife deposited the envelope in the US Mail that same day.

IV. ANALYSIS

On September 11, 2024, the Commission received an envelope containing an appeal of the determination of the Douglas 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 appealed from, or other information that documents the decision, order, determination, or action appealed from (County Board Decision). The deadline for filing the appeal for tax year 2024 was September 10 since the county had adopted a resolution to extend the deadline for hearing protests under section 77-1502.⁶

³ Neb. Rev. Stat. § 77-1510 (Reissue 2018).

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).

The appeal is timely received 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.⁷

The envelope containing the County Board Decision was received by the Commission on October 9, 2024. Neb. Rev. Stat. § 77-5013(1)(d) requires the timely filing of the County Board Decision. While Fasse testified a copy of the County Board Decision was mailed, no copy was present in the sealed envelope received by the Commission on September 11, 2024. Therefore, the Commission determines 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 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

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 22, 2024



Robert W. Hotz, Commissioner

Jackie S. Russell, Commissioner