

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

Jason J. Brezina,
Appellant,

Case No. 24R 1514

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 9:00AM. Jason J. Brezina (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.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 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.⁴

III. FINDINGS OF FACT

This appeal was received by the Commission on September 27, 2024. The envelope containing the appeal was postmarked September 25, 2024. The deadline for filing appeals from Douglas County was September 10, 2024, since the County adopted a resolution to extend the deadline for hearing protests.

Additionally, forty dollars was received for the filing fee. The assessed value of the Subject Property, as shown by the County Board decision, was \$252,100,⁵ which would require a filing fee of fifty dollars.⁶

A “Notification of Board Action” indicates the County Board made its final decision regarding the Taxpayer protest on August 6, 2024, and certifies the Notification was mailed sometime between August 6, 2024, and August 13, 2024.

Initially in his testimony, Brezina stated he was unsure when he first saw the Notification from the County Board, and that it was probably in late August 2024. Later in his testimony, however, Brezina asserted he did not receive notice of the County Board’s decision, as he routinely checks his business mail daily. He stated if he had received notice of the County Board’s decision, he would have appealed the decision quickly, as he is familiar with the Commission’s filing procedures. Brezina further stated that the September 24, 2024, signature date on the appeal form was the date he saw the notice of the County Board’s decision. He stated the appeal form and other

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

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

⁴ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

⁵ See Case File.

⁶ Neb. Rev. Stat. § 77-5013 (Reissue 2018).

materials were gathered and mailed that same day. Brezina conceded he was not sure exactly what date he received the County Board's decision, but that it was after September 10, 2024.

IV. ANALYSIS

On September 27, 2024, the Commission received an envelope containing an appeal of the determination of the County Board made pursuant to Neb. Rev. Stat. § 77-1502. The Douglas County Board adopted a resolution extending the deadline for hearing protests (Case File), so the filing deadline for tax year 2024 was September 10, 2024. The envelope containing the appeal was postmarked September 25, 2024, and received by the Commission on September 27, 2024.

There is evidence the Notification of the decision of the County Board was mailed sometime during the week of August 6 to August 13. Brezina's testimony regarding receiving the Notification was inconclusive.

The Commission finds there is a lack of competent evidence to persuade the Commission that a failure to give notice prevented the timely filing of the appeal. 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

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