

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

MARY K. KNUDTSON)	
)	
Appellant,)	CASE NO. 02H-1
)	
vs.)	
)	
SARPY COUNTY BOARD OF)	ORDER OF DEFAULT JUDGEMENT
EQUALIZATION,)	
)	
Appellee.)	

The above-captioned case was called for a hearing on the merits of an appeal by Mary K. Knudtson to the Tax Equalization and Review Commission ("the Commission"). The hearing was held in the Commission's Hearing Room on the sixth floor of the State Office Building in the City of Lincoln, Lancaster County, Nebraska, on April 2, 2003, pursuant to a Notice and Order for Hearing issued December 20, 2002. Commissioners Wickersham and Reynolds, were present. Commissioner Wickersham presided at the hearing.

Mary K. Knudtson ("the Taxpayer") failed to appear at the hearing. The Sarpy County Board of Equalization ("the County Board") appeared through counsel, Michael A. Smith, Esq., the Deputy County Attorney for Sarpy County, Nebraska. The Commission took statutory notice, received exhibits as provided by the parties. The County Board moved for a default judgment.

The Commission is required by *Neb. Rev. Stat. § 77-5018* (Cum. Supp. 2002) to state its final decision concerning an appeal, with findings of fact and conclusions of law, on the

record or in writing. The final decision and order of the Commission in this case follows:

**I.
FINDINGS**

The Commission finds and determines that:

1. Persons who are disabled may obtain a homestead exemption if they qualify. *Neb. Rev. Stat. § 77-3508* (Cum. Supp. 2002).
2. The Taxpayer applied for homestead exemption as a disabled person. (E5:1)
3. The application was rejected by the Sarpy County Assessor. (E7:1).
4. The Taxpayer timely protested that rejection to the County Board.
5. The County Board denied the protest. (E1:1)
6. The Taxpayer timely filed an appeal of that decision to the Commission.
7. The County Board was served with a Notice in Lieu of Summons, and duly answered that Summons.
8. A Notice and Order for Hearing was issued on December 20, 2002, setting a hearing of the Taxpayer's appeal for April 2, 2003, at 3:00 P.M. CST.
9. An Affidavit of Service which appears in the records of the Commission establishes that a copy of the Notice and Order for Hearing was served on all parties. (Case File)

10. The Taxpayer failed to file any exhibits with the Commission excepting the County's final determination which was filed with the Appeal Form.
11. The Taxpayer failed to appear at the hearing.
12. The notice of hearing states in Paragraph 8 that if the Taxpayer fails to appear at the hearing, the Commission may enter an order dismissing the Appeal.
13. The County Board moved for an Order of Default Judgement.
14. The County Board's motion for an Order of Default Judgement should be granted.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. Each of the parties has been afforded an opportunity to present evidence and argument as provided by *Neb. Rev. Stat.* § 77-5015 (Cum. Supp. 2002, as amended by Neb. Laws 2003 L.B. 291, § 8).
3. Each of the parties has been afforded an opportunity to cross-examine witnesses as required by *Neb. Rev. Stat.* § 77-5016(4) (Cum. Supp. 2002, as amended by Neb. Laws 2003 L.B. 291, § 8).
4. The Commission, while making a decision, may not consider testimony, records, documents or other evidence which is not

a part of the hearing record. *Neb. Rev. Stat.* § 77-5016(3) (Cum. Supp. 2002, as amended by 2003 Neb. Laws L.B. 291, §9).

5. The Commission is authorized to enter default judgements by *Neb. Rev. Stat.* § 77-5015 (Cum. Supp. 2002 as amended by Neb Laws 2003 LB 291 § 8).

III. ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the County Board's Motion for an Order of Default Judgement be, and hereby is, granted.
2. That the County Board's denial of Taxpayer's application for homestead exemption as a disabled person is affirmed.
3. That this decision, if no appeal is timely filed, shall be certified to the Sarpy County Treasurer, and the Sarpy County Assessor, pursuant to *Neb. Rev. Stat.* §77-5018 (Cum. Supp. 2002).
4. That any request for relief, by any party, which is not specifically provided for by this order is denied.
5. That each party is to bear its own costs in this matter.
6. That this decision shall only be applicable to tax year 2002.

7. This order is effective for purposes of appeal April 3, 2003.

IT IS SO ORDERED.

Dated April 3, 2003.

Wm R. Wickersham, Commissioner

Mark P. Reynolds, Chairman