

OHIO BOARD OF TAX APPEALS

Rudy LeBeau,)
)
 Appellant,) CASE NO. 01-A-706
)
 vs.) (REAL PROPERTY TAX)
)
 Fayette County Board of Revision and) DECISION AND ORDER
 Fayette County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Freddie L. LeBeau, *pro se*
8479 White Oak Road
Mt. Sterling, Ohio 43160

For the County Appellees - James R. Gorry
Rich, Crites & Wesp
20 East Broad Street
Columbus, Ohio 43215

Entered: December 14, 2001

Mr. Johnson, Ms. Jackson, and Ms. Margulies concur.

This appeal is now considered by the Board of Tax Appeals following the issuance of our order requiring that the “appellant show cause why this Board should not dismiss the instant appeal for failure to file in a timely fashion.” Our order was premised upon the statutory requirements of R.C. 5717.01, which specifically provide in pertinent part, as follows:

“An appeal from a decision of a county board of revision may be taken to the board of tax appeals within thirty days after

notice of the decision of the county board of revision is mailed as provided in section 5715.20 of the Revised Code. * * * Such appeal shall be taken by the filing of a notice of appeal, either in person or by certified mail, with the board of tax appeals and with the county board of revision. * * *” (emphasis added)

:

In our order, we briefly set forth the pertinent facts of the instant appeal, as follows:

“The county board of revision, in the statutory transcript certified to this Board, indicates that the board of revision’s decision was mailed to appellant on June 11, 2001. Appellant did not file his notice of appeal with this Board until August 13, 2001 and did not file a copy of such notice of appeal with the county board of revision until August 27, 2001.”

Only Mr. Freddie L. LeBeau, on appellant’s behalf, responded to this Board’s show cause order. He explained his position, stating that “the Auditor originally forwarded me the wrong form. I did complete and mail the notice within 30-days after receiving the correct form. Unfortunately it was more than 30 days from the date I received the decision from the local Board of Appeals.” Appellant elaborated on the foregoing facts in his notice of appeal:

“This decision was mailed on June 12th. We were busy with hay and straw and didn’t take the time to go to the Post Office to pick up the certified mail and the Post Office returned it to the Auditor. * * * The Auditor then forwarded the notice to me regular mail along with the a [sic] Notice of Appeal, which I requested on June 26th. The Auditor later called me and indicated she had forwarded the wrong form and would mail the correct form * * *.

“I only received the proper Notice of Appeal on July 13th and am now filing my appeal within 30 days of receipt of the proper form.”

The requirements of R.C. 5717.01 are specific and mandatory in nature. When a statute confers the right of appeal, adherence to the terms and conditions set forth therein is essential to the enjoyment of the right conferred. *American Restaurant and Lunch Co. v. Glander* (1946), 147 Ohio St. 147. The statutory requirements for filing a notice of

appeal from a decision of a county board of revision are mandatory and jurisdictional. *Bd. of Edn. of Mentor v. Bd. of Revision* (1980), 61 Ohio St.2d 332. As strict compliance with R.C. 5717.01 is essential to vest jurisdiction with this Board, and since appellant did not file his notice of appeal with this Board within 30 days of the mailing of the decision letter issued by the board of revision (either the June 11 or June 26 mailing), it is clear that the Board of Tax Appeals does not have jurisdiction to consider the instant matter.¹

Accordingly, it is the Order of the Board of Tax Appeals that the above-styled matter must be, and hereby is, dismissed.

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¹ Having determined that this Board does not have jurisdiction to consider the instant matter due to appellant's failure to file the notice of appeal in a timely manner, we need not address any other jurisdictional issues raised by our earlier show cause order.