

OHIO BOARD OF TAX APPEALS

Mark and Judith Carpenter,)	
)	
Appellants,)	CASE NOS. 01-T-647
)	01-T-696
vs.)	
)	(REAL PROPERTY TAX)
Lake County Board of Revision)	
and the Lake County Auditor,)	DECISION AND ORDER
)	
Appellees.)	

APPEARANCES:

For the Appellants -	Mark Carpenter, <i>pro se</i> 2644 River Road Willoughby, Ohio 44094
For the County Appellees -	Charles E. Coulson Lake County Prosecuting Attorney By: Michael P. Brown Assistant Prosecuting Attorney Administration Building 105 Main Street P.O. Box 490 Painesville, Ohio 44077

ENTERED: December 14, 2001

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

On November 2, 2001, this Board issued an Order, requiring appellants, Mark and Judith Carpenter, to show cause as to why their appeals should not be dismissed because (1) the notices were not filed within the time prescribed by R.C. 5717.01 and (2) copies of the notices of appeal were not filed with the Board of Revision. No response was filed within the time prescribed by our Order.

R.C. 5717.01 sets forth the requirements for bringing an appeal before the Board of Tax Appeals 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 county board of revision is mailed as provided in section 5715.20 of the Revised Code*. Such an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor. Such appeal shall be taken by the filing of a notice of appeal, either in person or by certified mail, express mail, or authorized delivery service, with the board of tax appeals and with the county board of revision. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender’s receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing.” (Emphasis added.)

A review of the record indicates that the Carpenter’s notices of appeal were mailed to this Board by U.S. regular mail and filed on August 6, 2001. A review of the statutory transcript certified to this Board by the Lake County Auditor further indicates that the notice of the BOR’s decision was mailed by certified mail on July 3, 2001.¹ The last day for filing was August 2, 2001. R.C. 5717.01. See R.C. 1.14; Civ. R. 6(A). Thus, according to the record, the notices of appeal were filed with this Board beyond thirty days following the mailing of the BOR’s decision. In addition,

¹ It appears that both notices of appeal were taken from the same decision letter.

the Lake County Auditor certifies in the statutory transcript that copies of the notices of appeal were not filed with the BOR.

The requirements of R.C. 5717.01 must be strictly complied with before the subject matter jurisdiction of the Board of Tax Appeals may be invoked. *Austin Co. v. Cuyahoga Cty. Bd. of Revision* (1989), 46 Ohio St.3d 192; *American Restaurant & Lunch Co. v. Glander* (1946), 147 Ohio St. 147. One of those requirements is that the notice of appeal must be filed with *both* the Board of Tax Appeals and the board of revision within thirty days after the certified mailing of the board of revision's decision. Failure to comply with this requirement will lead to the dismissal of the appeal. *Austin Co., supra*; *Akron Standard Div. v. Lindley* (1984), 11 Ohio St.3d 10.

Upon review of the foregoing, it appears that Mr. and Mrs. Carpenter filed their notices of appeal after the expiration of the thirty-day deadline established by statute. We do note that the decision letter issued by the BOR erroneously indicates that the property owner has sixty days in which to appeal the BOR decision to this Board. (S.T. Exhibit E.) Nevertheless, we are not bound by the BOR's representation as to the period within which jurisdiction over an appeal is established by R.C. 5717.01. *Page v. Lake Cty. Bd. of Revision* (Oct. 26, 2001), BTA No. 01-T-707, unreported. Moreover, it is evident that no copy of either notice of appeal was filed with the BOR, as provided by statute. As the Carpenters failed to properly perfect their appeals to the Board of Tax Appeals, it is the decision and order of this Board

that these matters must be, and the same hereby are, dismissed.

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