

OHIO BOARD OF TAX APPEALS

Marc Niedzwicki,)
)
 Appellant,) (CASE NO. 2008-A-976
) (REAL PROPERTY TAX)
 vs.)
) (DECISION AND ORDER
)
 Erie County Board of Revision and)
 Erie County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - Marc Niedzwicki, pro se
11408 Clary Road
Wakeman, Ohio 44889

For the County Appellees - James R. Gorry
Attorney at Law
1299 Carron Drive
Columbus, Ohio 43220

Entered May 19, 2009

Ms. Margulies, Mr. Johrendt, and Mr. Dunlap concur.

This appeal is now considered by the Board of Tax Appeals following the receipt of a motion to dismiss appeal filed by the appellee county auditor. Said motion requests this board to dismiss the instant appeal for appellant’s failure to file a copy of such appeal with the board of revision. The motion 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 division (A) of section 5715.20 of the Revised Code. *** Such appeal shall be taken by the filing of a notice of appeal, 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.* *** ” (Emphasis added.)

The pertinent facts of the instant appeal, as set forth in the motion, are as follows:

“According to the statutory transcript filed herein, the County Board of Revision mailed its decision by certified mail to Appellant on June 9, 2008. A copy of the Board of Revision’s decision letter dated June 9, 2008, is included in the transcript from the Board of Revision.

“Appellant was required to file the notice of appeal with the Board of Revision within thirty days of the mailing of the Board’s decision under R.C. 5717.01. Unfortunately, Appellant failed to file a copy of the notice of appeal with the Board of Revision. The Board’s transcript states that no such copy was filed with the Board of Revision *** [as of July 22, 2008].”

The appellant did not file a response to the motion.

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. *Am. Restaurant & 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 a copy of his notice of appeal with the county board of revision within 30 days of the mailing of the decision letter issued by the board of revision, it is clear that the Board of Tax Appeals does not have jurisdiction to consider the instant matter. See *Hope v. Highland Cty. Bd. of Revision* (1990), 56 Ohio St.3d 68.

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

ohiosearchkeybta