

OHIO BOARD OF TAX APPEALS

Frank S. Novak,)
)
 Appellant,) (CASE NO. 2008-T-2226
) (REAL PROPERTY TAX)
 vs.)
) (DECISION AND ORDER)
)
 Medina County Board of Revision)
 and Medina County Auditor,)
)
)
 Appellees.)

APPEARANCES:

For the Appellant - Frank S. Novak, pro se
2070 Oxford Circle
Hinckley, Ohio 44233

For the County Appellees - Dean Holman
Medina County Prosecuting Attorney
72 Public Square
Medina, Ohio 44256

Entered January 20, 2009

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

On December 16, 2008, the board issued an order requiring appellant, Frank S. Novak, to show cause as to why this appeal should not be dismissed for failure to invoke the subject-matter jurisdiction of the BTA. Mr. Novak did not respond to the 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 decision of the county board of revision is mailed as provided in division (A) of section 5715.20 of the Revised Code.¹ *** 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. If 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.”

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; *Am. 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. Failing to comply with the requirement will lead to the dismissal of the appeal. *Austin Co.*, supra; *Akron Standard Div. v. Lindley* (1984), 11 Ohio St.3d 10.

¹ R.C. 5715.20(A) provides: “Whenever a county board of revision renders a decision on a complaint filed under section 5715.19 of the Revised Code, it shall certify its action by certified mail to the person in whose name the property is listed or sought to be listed and to the complainant if the complainant is not the person in whose name the property is listed or sought to be listed. A person’s time to file an appeal under section 5717.01 of the Revised Code commences with the mailing of notice of the decision to that person as provided in this section. ***”

In the instant matter, the transcript certified to the BTA by the Medina County Auditor specifies that notice of the BOR's decision was mailed by certified mail to the complainant on October 7, 2008. S.T. at DTE Form 3. Therefore, the appeal period in this matter expired on November 6, 2008. R.C. 5715.20(A) and 5717.01. The record establishes that Mr. Novak filed his notice of appeal with the Board of Tax Appeals on November 7, 2008.²

Because the notice of appeal was filed with this board after the thirty-day deadline established by R.C. 5717.01, this board is without subject-matter jurisdiction. Accordingly, we dismiss BTA No. 2008-T-2226.

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² The notice of appeal was mailed to the BTA by U.S.P.S. certified mail on November 7, 2008, giving the notice of appeal a deemed filing date of the date of mailing. R.C. 5717.01. The board physically received the notice of appeal on November 12, 2008. The board further notes that the auditor has certified that the BOR received its copy of the notice of appeal on November 10, 2008. Although the BOR's copy of the notice of appeal is stamped with a "received" date of November 10, 2008, the record fails to indicate whether Mr. Novak used certified mail, regular mail, or personal delivery to effect the filing. If sent to the BOR by certified mail, the date of filing should be the date shown on the postmark, rather than the date received. See R.C. 5717.01.