

OHIO BOARD OF TAX APPEALS

James MacFadyen,)
)
 Appellant,) CASE NO. 2004-A-772
)
 vs.) (REAL PROPERTY TAX)
)
 Montgomery County Board of Revision) DECISION AND ORDER
 and Montgomery County Auditor,)
)
 Appellees.)

APPEARANCES:

For the Appellant - James MacFadyen, pro se
2101 Farmersville-W. Alex Road
Farmersville, Ohio 45325

For the County Appellees - Mathias H. Heck, Jr.
Montgomery County Prosecuting Attorney
Laura G. Mariani
Assistant Prosecuting Attorney
301 West Third Street
P.O. Box 972
Dayton, Ohio 45402

Entered March 18, 2005

Ms. Jackson, Ms. Margulies, and Mr. Eberhart 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 a copy of such appeal with the board of revision.” 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, 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.)

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 August 1, 2004. Appellant filed his notice of appeal with this board on August 30, 2004 but did not file a copy of such notice of appeal with the county board of revision.”

Mr. MacFadyen responded to our show cause order, but only addressed the merits of his case and did not indicate whether he had forwarded a copy of his notice of appeal to the BOR.

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 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