

FILED

08/14/2018

Clerk of the
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
August 10, 2018

EXTENDED STAY AMERICA v. SCOTT WILSON

Appeal from the Circuit Court for Davidson County
No. 14C-1853 Amanda Jane McClendon, Judge

No. M2018-01337-COA-R3-CV

This is an appeal from a judgment entered on February 20, 2015. Because the appellant did not file his notice of appeal within thirty days after entry of the judgment as required by Tenn. R. App. P. 4(a), we dismiss the appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

FRANK G. CLEMENT, JR., P.J., M.S., ANDY D. BENNETT, AND RICHARD H. DINKINS, JJ.

Scott Warren Wilson, Nashville, Tennessee, pro se.

J. Paul Brewer, Nashville, Tennessee, for the appellee, Extended Stay America, Inc.

MEMORANDUM OPINION¹

This case began in the General Sessions Court for Davidson County. Following an adverse judgment, the defendant, Scott Wilson, filed an appeal to Circuit Court for Davidson County. The plaintiff, Extended Stay America, filed a motion to dismiss the appeal and to make the judgment of the General Sessions Court the judgment of the Circuit Court based on Mr. Wilson's failure to set the case for trial under Rule 20 of the Local Rules of Practice of the Twentieth Judicial District. On February 20, 2015, the

¹Tenn. R. Ct. App. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

Circuit Court granted the plaintiff's motion, dismissed Mr. Wilson's appeal, and adopted the judgment of the General Sessions Court.

More than three years later, on July 20, 2018, Mr. Wilson filed a notice of appeal with the clerk of this court. Because Tenn. R. App. P. 4(a) requires that a notice of appeal be filed within thirty days after entry of the judgment appealed, this court ordered Mr. Wilson to show cause why his appeal should not be dismissed for failure to file a timely notice of appeal. Mr. Wilson has failed to respond.

The thirty day time limit for filing a notice of appeal is mandatory and jurisdictional. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *Binkley v. Medling*, 117 S.W.3d 252, 255 (Tenn. 2003). This court can neither waive nor extend the time period. Tenn. R. App. P. 2 and 21(b); *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d 856, 869 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Serv. Corp.* 699 S.W.2d 181, 184 (Tenn. Ct. App. 1985). The failure to file a timely notice of appeal deprives this court of jurisdiction to hear the matter. *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d at 869.

This appeal is hereby dismissed. The case is remanded to the trial court for further proceedings consistent with this opinion. Scott Wilson is taxed with the costs for which execution may issue.

PER CURIAM