

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-3624

Thomas James Erickson,

Appellant,

v.

United States Post Office;
Ione Smischney; Kalene Schultz;
Natalie Sorvari; Marilyn Doe,

Appellees.

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* Appeal from the United States
* District Court for the
* District of Minnesota.
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* [UNPUBLISHED]
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Submitted: September 28, 2007
Filed: October 12, 2007

Before WOLLMAN, COLLOTON, and BENTON, Circuit Judges

PER CURIAM.

Thomas James Erickson appeals from the district court's¹ dismissal of his pro se civil complaint in which he alleged that the United States Postal Service, through four of its Minnesota employees, wrongfully refused to deliver his mail or hold it for pick-up. Upon de novo review, see Goodin v. U.S. Postal Inspection Serv., 444 F.3d

¹The Honorable John R. Tunheim, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Raymond L. Erickson, Chief United States Magistrate Judge for the District of Minnesota.

998, 1000 (8th Cir. 2006), cert. denied, 127 S. Ct. 930 (2007), we conclude that the district court properly dismissed Erickson's complaint for lack of subject-matter jurisdiction because the Postal Regulatory Commission has exclusive jurisdiction over Erickson's claims regarding postal rates and services. See 39 U.S.C. § 3662; LeMay v. U.S. Postal Serv., 450 F.3d 797, 799-800 (8th Cir. 2006).

We modify the dismissal to be without prejudice, see Hernandez v. Conriv Realty Assocs., 182 F.3d 121, 123-24 (2d Cir. 1999) (Article III deprives federal courts of power to dismiss case with prejudice where subject matter jurisdiction does not exist), and affirm the judgment as modified. See 8th Cir. R. 47B.
