

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

DAMON BURNS and JENNIE BURNS,)	
)	
Plaintiffs,)	TC-MD 170053G
)	
v.)	
)	
MULTNOMAH COUNTY ASSESSOR,)	
)	
Defendant.)	FINAL DECISION OF DISMISSAL

By order issued May 23, 2017, incorporated herein by reference, the court granted Defendant’s motion to dismiss for untimeliness. The court’s order granted Plaintiffs leave to file an amended complaint requesting a correction to the 2015–16 tax roll real market value, stating that Plaintiffs’ appeal would be dismissed if the amended complaint were not filed within 14 days. The court did not receive an amended complaint within that time. The court’s Decision of Dismissal was issued on June 9, 2017.

On June 13, 2017, Plaintiffs wrote to the court requesting that their case be continued. Plaintiffs stated that they had not received the court’s order of May 23, 2017, and they suggested that either the post office had lost his mail or it was stolen from his mailbox.

On June 23, 2017, Plaintiff Damon Burns wrote to the court, captioning his letter “Amended Complaint.” Mr. Burns asserted that the 2015 real market value of his house was “not that much higher” than \$295,000. He repeated the allegations about receiving legal advice from court staff that were addressed in the court’s order of May 23, 2017. He also repeated that he had not received the court’s order of May 23, 2017.

On May 30, 2017—before the court’s Decision of Dismissal and Plaintiffs’ two subsequent letters—the following note was entered into the court’s case management software

by court staff: “Damon Burns called wanting to know why he received an order that his case was dismissed.” The only order issued by the court in this case was its Order Granting Defendant’s Motion to Dismiss, issued May 23, 2017.

Tax Court Rule–Magistrate Division (TCR–MD) 18 B allows litigants to request relief from a decision “for reasons of mutual mistake, inadvertence, excusable neglect, or misconduct of another party.” TCR–MD 18 C states: “Following issuance of a decision, final decision, or judgment, the court will not accept motions for reconsideration or to reopen the record; therefore, the provisions of TCR 80 are inapplicable in the Magistrate Division.”

Here, Plaintiffs’ letters request relief from the court’s Decision of Dismissal because they never received the court’s order of May 23, 2017. In light of the telephone call Damon Burns placed to the court on May 30, 2017, Plaintiffs’ assertion that they never received the order is not credible. To the extent Plaintiffs request relief for that reason, their request is not well taken. To the extent Plaintiffs request the court to reconsider its decision or to reopen the record, Plaintiffs’ request may not be accepted for consideration in the Magistrate Division. *See* TCR–MD 18 C. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs’ appeal is dismissed. Each party is to bear its own costs.

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IT IS FURTHER DECIDED that Plaintiffs' request for relief from the court's Decision of Dismissal is denied.

Dated this ____ day of June, 2017.

POUL F. LUNDGREN
MAGISTRATE

If you want to appeal this Final Decision of Dismissal, file a complaint in the Regular Division of the Oregon Tax Court, by mailing to: 1163 State Street, Salem, OR 97301-2563; or by hand delivery to: Fourth Floor, 1241 State Street, Salem, OR.

Your complaint must be submitted within 60 days after the date of the Final Decision of Dismissal or this Final Decision of Dismissal cannot be changed. TCR-MD 19 B.

This document was filed and entered on June 30, 2017.