

IN THE OREGON TAX COURT  
MAGISTRATE DIVISION  
Property Tax

RICHARD A. SECORD and PUGET SOUND LEASING CO., INC.,	)	
	)	
Plaintiffs,	)	No. 020393F
	)	
v.	)	
	)	
UMATILLA COUNTY ASSESSOR,	)	
	)	
Defendant.	)	<b>DECISION OF DISMISSAL</b>

This matter is before the court on Defendant's motion to dismiss, filed with its Answer on May 10, 2002, requesting that the Complaint be dismissed.

This appeal concerns the imposition of a 100 percent penalty due to the late filing of a personal property return. Plaintiffs' records reflect that they mailed the personal property return on February 21, 2001. Whether lost in the mail or Plaintiffs' records are incorrect, Defendant did not receive the return. When notified of Defendant's failure to receive the return, Plaintiffs immediately faxed the return to Defendant. Pursuant to the operation of ORS 308.296(6)<sup>1</sup>, Defendant imposed the 100 percent penalty. Plaintiffs timely paid the taxes and penalty. Plaintiffs timely appealed to the board of property tax appeals (BOPTA). BOPTA denied the request for relief. In asking the court to dismiss the case, Defendant cites ORS 308.296(6) which states that "[t]here shall be no appeal

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<sup>1</sup> All references to the Oregon Revised Statutes are to 1999.

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from the determination of the board under this subsection." The language of the statute is clear, BOPTA's determination is final. Now, therefore,

IT IS THE DECISION OF THIS COURT that this matter be dismissed.

Dated this \_\_\_\_\_ day of July, 2002.

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SALLY L. KIMSEY  
MAGISTRATE

**IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97301-2563. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.**

**THIS DOCUMENT WAS SIGNED BY MAGISTRATE SALLY L. KIMSEY ON JULY 26, 2002. THE COURT FILED THIS DOCUMENT ON JULY 26, 2002.**