

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

BILL LEDFORD,)
)
 Plaintiff,) TC-MD 021239C
)
 v.)
)
 LANE COUNTY ASSESSOR,)
)
 Defendant.) **DECISION**

This appeal involves the loss of a discount and the imposition of interest for the untimely payment of property taxes on certain real property identified in the Lane County Assessor's records as Account 1097680 for the 2001-02 tax year. The case management conference set for January 21, 2003, was converted to a trial. Plaintiff appeared on his own behalf. Defendant appeared through Gloria Rogers.

STATEMENT OF FACTS

Plaintiff asserts he mailed the property tax payment for the 2001-02 tax year on November 15, 2001, which is the deadline for payment of property taxes. The envelope containing Plaintiff's payment was postmarked November 19, 2001. (Def's Answer at 3.) Plaintiff's tax payment included the 3 percent discount available to taxpayers who pay their taxes on time and in full. Defendant denied Plaintiff the discount because the taxes were not timely paid. On or about May 15, 2002, Defendant notified Plaintiff of a balance owing on the account in the amount of \$83.61. Plaintiff telephoned the assessor's office when he received the notice and was told that the balance was based on loss of the discount, amounting to \$72.82, and one month's interest of \$10.79. Plaintiff objected and was advised he could appeal to the Tax Court.

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COURT'S ANALYSIS

The due dates, interest charges, and discount provisions pertaining to property taxes are found in ORS 311.505.¹ That statute provides in relevant part:

“(1) Except as provided in subsection (6) of this section, the first one-third of all taxes and other charges due from the taxpayer or property, levied or imposed and charged on the latest tax roll, shall be paid on or before November 15, the second one-third on or before February 15, and the remaining one-third on or before May 15 next following.

“(2) Interest shall be charged and collected on any taxes on property * * or installment thereof not paid when due, at the rate of one and one-third percent per month, or fraction of a month until paid.

“(3) Discounts shall be allowed on partial or full payment of such taxes, made on or before November 15 as follows:

“(a) Two percent on two-thirds of such taxes so paid.

“(b) Three percent where all of such taxes are so paid.”

ORS 311.505.

Defendant determined Plaintiff's payment was untimely based on the November 19, 2001, postmark cancellation date. Plaintiff contends the payment was deposited in the mailbox on November 15, 2001, but the testimony was not supported by independent corroborating evidence. Plaintiff could not recall the details but believes the payment was mailed from his home mailbox. November 15, 2001, was a Thursday. November 19, 2001, was a Monday. The events surrounding September 11, 2001, could have caused a delay at the post office, but there is no claim or evidence to that effect.

Plaintiff further argues that by cashing the check Defendant accepted the amount

¹ All references to the Oregon Revised Statutes (ORS) are to 1999.
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tendered as payment in full. Plaintiff also argues that Defendant was unjustly enriched by keeping the untimely payment rather than returning the check because Defendant had use of the money for six months. The court rejects both arguments. The payment obligation and the discount are both statutory. The amount Plaintiff tendered only constituted payment in full if it was postmarked by the deadline of November 15, 2001. It was not. Plaintiff cannot transform an untimely payment of the discounted liability to a timely payment in full of that obligation by writing the words “paid in full” (or words to that effect) on the check. Nor does cashing the check and retaining the proceeds constitute an acceptance of the assertion that the taxes are paid in full.

Turning to Plaintiff’s unjust enrichment argument, the facts do not support the claim. Defendant never received more than the amount to which it was entitled. In addition, Defendant’s actions minimized Plaintiff’s expense. By accepting the payment received in November, Plaintiff was only charged interest for one month. Returning the check would have caused additional interest to accrue. By statute the taxes would not be delinquent until May 15, 2002. See ORS 311.510. However, at least one-third of the taxes were due on November 15, 2001, and the amount received by Defendant nearly one week later, while constituting more than a third of the taxes, was less than the full amount due, given that the discount was not available. It was not unreasonable for Defendant to accept the payment and doing so did not unjustly enrich Defendant.

CONCLUSION

Plaintiff’s request for a refund of the “late fees” resulting from loss of the 3 percent discount and the imposition of interest for late payment of Plaintiff’s property taxes is denied. Now, therefore,

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IT IS THE DECISION OF THIS COURT that the relief requested by Plaintiff is denied.

Dated this _____ day of February, 2003.

DAN ROBINSON
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 DAN ROBINSON ON FEBRUARY 27, 2003. THE COURT FILED THIS DOCUMENT ON FEBRUARY 27, 2003.