

IN THE OREGON TAX COURT
REGULAR DIVISION
Property Tax

SHARRONNE VINCENT,)	
)	TC 4670
Plaintiff,)	
)	ORDER GRANTING DEFENDANT'S
v.)	MOTION TO DISMISS
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	

I. FACTS

Plaintiff (taxpayer) appealed a clerical error correction made by the Columbia County Assessor that affected tax years 1997-2003 to the Magistrate Division of the Oregon Tax Court. The Magistrate Division filed a Decision on November 28, 2003, denying taxpayer's complaint.

In an attempt to appeal that decision, taxpayer mailed a Magistrate Division Complaint Form with a check for \$25, the Magistrate Division filing fee amount, to the Magistrate Division on January 26, 2004. On January 28, 2004, the Magistrate Division advised the taxpayer of her filing error, sent the taxpayer a Regular Division complaint form and returned her check.

Taxpayer mailed her Complaint to the Regular Division of the Tax Court on February 3, 2004, 67 days after the Magistrate's Decision was issued. Taxpayer's Complaint and \$50 filing fee were received February 5, 2004, in the Regular Division.

Defendant (the department) filed an Answer on February 27, 2004, and a Motion to Dismiss on April 8, 2004. Taxpayer responded to the department's Motion to Dismiss on June 7, 2004.

II. ISSUE

Was the appeal filed by taxpayer in this court time barred?

III. ANALYSIS

The filing by taxpayer in this court was beyond the 60 days allowed by the legislature. *See* ORS 305.501(5). Taxpayer has offered reasons for her filing being tardy. The legislature has not provided exceptions from the time requirements for the reasons given and this court may not do so. This court has repeatedly pointed out the decisive roll of statutory time limits where, as here, the opposing party raises the time limits as an issue. As the court stated in *Harding v. Dept. of Rev.*, 10 OTR 166 (1985), if a litigant waits until the end of the filing period the consequence of being wrong about procedural requirements is severe.

IV. CONCLUSION

Taxpayer's Complaint was time barred. Now, therefore,

IT IS ORDERED that the Department of Revenue's Motion to Dismiss is granted. Costs to neither party.

Dated this ____ day of July 2004.

Henry C. Breithaupt
Judge

THIS DOCUMENT WAS SIGNED BY JUDGE HENRY C. BREITHAUPT ON JULY 12, 2004 AND WAS FILE STAMPED ON JULY 12, 2004. THIS DOCUMENT IS AN UNPUBLISHED DOCUMENT.