

IN THE UTAH COURT OF APPEALS

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Richard Edwards,)	PER CURIAM DECISION
)	
Plaintiff and Appellee,)	Case No. 20110666-CA
)	
v.)	F I L E D
)	(October 27, 2011)
MaryAnn Lucero,)	
)	
Defendant and Appellant.)	2011 UT App 371

Third District, West Jordan Department, 110405468
The Honorable Charlene Barlow

Attorneys: MaryAnn Lucero, Salt Lake City, Appellant Pro Se

Before Judges Davis, McHugh, and Roth.

¶1 MaryAnn Lucero appeals the trial court’s judgment against her in an eviction action. This is before the court on its own motion for summary disposition. Neither party responded to the motion. On review of the record, it is apparent that the notice of appeal was untimely filed.

¶2 Generally, a notice of appeal must be filed within thirty days of the order or judgment appealed. *See* Utah R. App. P. 4(a). In unlawful detainer actions, the notice of appeal must be filed within ten days. *See id.* If an appeal is not timely filed, this court lacks jurisdiction to consider the appeal. *See Serrato v. Utah Transit Auth.*, 2000 UT App 299, ¶ 7, 13 P.3d 616.

¶3 The trial court entered its final judgment on the underlying case on April 28, 2011. Lucero did not file her notice of appeal until July 20, 2011, well after the time

period for filing a notice of appeal had expired.¹ Because her notice of appeal was untimely filed, this court lacks jurisdiction and must dismiss the appeal. *See id.*

¶4 Dismissed.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

Stephen L. Roth, Judge

¹Lucero had filed a motion to set aside the judgment pursuant to rule 60(b) of the Utah Rules of Civil Procedure prior to filing her notice of appeal. However, rule 60(b) motions do not toll the time for appeal of the underlying judgment. *See Amica Mut. Ins. Co. v. Schettler*, 768 P.2d 950, 970 (Utah Ct. App. 1989). Rather, an order resolving a rule 60(b) motion is a separate appealable order. *See id.* Lucero did not appeal the denial of her motion to set aside.