

Norma K. Gerrie

v.

Department of Revenue Administration

Docket No.: 27971-14LM

DECISION

In response to the board's September 22, 2015 Order ("Order"), the department of revenue administration ("DRA") submitted an October 9, 2015 "written statement" requesting a dismissal of this appeal (the "Dismissal Request"). The Taxpayer submitted a letter dated October 9, 2015 (filed on October 13, 2015) stating her reason for "late filing" the Low and Moderate Income Homeowner's Property Tax Relief Application ("Application") for tax year 2014 (the "Taxpayer's Response"). After weighing the arguments presented by the parties and in light of the applicable law, the board finds the DRA did not err in denying the Application and the appeal is dismissed for the following reasons.

As stated in the Order, the applicable statutes prescribe a time frame for filing the annual Application (between May 1 and June 30) and contain an exception for late filing (on or before November 1) if the claimant was prevented from filing earlier "due to accident, mistake or misfortune." The DRA based its denial on the Taxpayer's admitted awareness of the June 30 deadline and was not persuaded the "legal distraction" (of acting as an executor of an estate)

claimed by the Taxpayer satisfies the accident, mistake or misfortune exception in the statute.

(Cf., Dismissal Request, pp. 2-3, and Taxpayer Response.) The board agrees.

Consequently, the appeal is dismissed.

Any party seeking a rehearing, reconsideration or clarification of this Decision must file a motion (collectively “rehearing motion”) within thirty (30) days of the clerk’s date below, not the date this decision is received. RSA 541:3; Tax 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; Tax 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board’s decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule Tax 201.37. Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board’s denial with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Concurred, unavailable for signature
Michele E. LeBrun, Chair

Albert F. Shamash, Member

Theresa M. Walker, Member

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CERTIFICATION

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Norma K. Gerrie, 44 Maple Drive, Bedford, NH 03110, Taxpayer; and Shaun P. Thomas, Esq., State of New Hampshire, Department of Revenue Administration, 109 Pleasant Street, Concord, NH 03301.

Dated: November 13, 2015

Anne M. Stelmach, Clerk