

On November 6, 1996, Halwell responded to the Division's Motion, providing a copy of a U.S. Mail Certified Return Receipt, showing the Division's receipt of a document from Halwell on October 15, 1996. Halwell asserts that said document was a copy of the notice of appeal.

CONCLUSIONS OF LAW

O.R.C. §1509.36 sets forth the method by which an appeal is perfected to the Oil & Gas Board of Review. That section of law provides inter alia:

Any person claiming to be aggrieved or adversely affected by an order by the chief of the division of oil and gas may appeal to the oil and gas board of review . . . Such appeal shall be filed with the board within thirty days after the date upon which appellant received notice by registered mail of the making of the order complained of. Notice of the filing of such appeal shall be filed with the chief within three days after the appeal is filed with the board . . .

(Emphasis added.)

Where a statute confers the right of appeal, adherence to the conditions imposed thereby is essential to the enjoyment of that right. American Restaurant and Lunch Co. v. Glander, 147 Ohio St. 147 (1946).

The requirement that the Chief be served with a copy of a notice of appeal is mandatory and jurisdictional. Clippard Instruments Laboratory, Inc. v. Lindley, 50 Ohio St. 2d 121 (1977). Indeed, the Oil & Gas Board of Review has dismissed prior appeals for the appellant's failure to serve the Division Chief. See Beverly Jo Dobbin Williams v. Mason, Oil & Gas Board of Review appeal #528 (April 26, 1994); William Kidd v. Mason, Oil & Gas Board of Review appeal #535 (May 20, 1994); Hanely Hardin v. Mason, Oil & Gas Board of Review appeal #566 (June 27, 1996).

Halwell asserts that a copy of its appeal was mailed to the Chief, but not received until nearly two months after mailing. Yet, Halwell has not produced any positive proof of this mailing.¹

In order to invoke the jurisdiction of the Board, an appellant must serve a copy of the notice of appeal upon the Chief within three days after filing the notice with the Board. By law, the failure of an appellant to comply with these procedures results in the dismissal of an appeal. Halwell failed to satisfy this statutory requirement. For this reason, the Oil & Gas Board of Review lacks jurisdiction to hear and decide the immediate appeal.

ORDER

The Oil & Gas Board of Review has read and considered the Appellee's Motion to Dismiss. The Board has also reviewed its prior orders and decisions. The Board finds the Appellee's arguments well taken. WHEREFORE, the Board GRANTS Appellee's Motion and DISMISSES appeal no. 594, with prejudice.


WILLIAM J. TAYLOR, Chairman


JAMES H. CAMERON


BENITA KAHN, Secretary


JOHN A. GRAY

*RECUSED
GAIL IGNATZ-HOOVER

¹Halwell attached to its response to the Division's Motion to Dismiss a copy of a Certified Mail Return Receipt. This receipt shows that the Division Chief received a document on October 15, 1996. However, this receipt does not establish when the mailing was made or even what article was mailed.