

BEFORE THE
OIL & GAS COMMISSION

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Division of Oil and Gas

ART & CAROL CRANN,	:	Appeal No. 671
	:	
Appellants,	:	
	:	Review of Chief's Order 99-103
-vs-	:	
	:	
	:	
DIVISION OF OIL & GAS,	:	<u>ORDER OF THE</u>
	:	<u>COMMISSION GRANTING</u>
	:	<u>MOTION TO DISMISS</u>
Appellee.	:	<u>APPEAL</u>

Appearances: Art & Carol Crann, Appellants *pro se*; Raymond Studer, Assistant Attorney General, Counsel for Appellee Division of Oil & Gas.

Date Issued: 10/1/99

BACKGROUND

This matter came before the Oil & Gas Commission upon appeal by Art & Carol Crann from Chief's Order 99-103. Chief's Order 99-103 granted the mandatory pooling of 0.2949 acres of land for the drilling of a well to be known as the Conway #1 Well. The applicant for the permit to drill the Conway #1 Well is Everflow Eastern Partners, L.P. Carol Crann owns 0.0983 acres subject to the mandatory pooling order.

Chief's Order 99-103 contained instructions for filing an appeal with the Oil & Gas Commission. The instructions informed Art & Carol Crann that they were required to file a copy of their notice of appeal with the Division Chief.

On August 25, 1999, the Commission received the Cranns' notice of appeal. On September 17, 1999, the Division filed a Motion to Dismiss this appeal, stating that the Cranns failed to serve the Chief with a copy of the notice of appeal as required by law. The Division argued that this failure constitutes a jurisdictional defect, requiring dismissal of this appeal. The Cranns have not responded to the Division's Motion.

CONCLUSIONS OF LAW

O.R.C. §1509.36 sets forth the method by which an appeal is perfected to the Oil & Gas Commission. That section of law provides in part:

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 [commission] . . . Such appeal shall be filed with the [commission] 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 [commission] . . .

(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 jurisdiction. Clippard Instruments Laboratory, Inc. v. Lindley, 50 Ohio St. 2d 121 (1977). Indeed, the Oil & Gas Commission has dismissed prior appeals for the appellant's failure to serve the Division Chief. See Beverly Jo Dobbin Williams v. Mason, appeal #528 (April 26, 1994); Hanley E. Hardin v. Division, appeal #566 (June 27, 1996); Halwell Company, Inc. v. Division, appeal #594 (March 10, 1997).

The Cranns filed their appeal without aid of counsel. The Commission understands that unrepresented appellants may be unfamiliar with the procedures employed in administrative appeals. Yet, some statutory requirements are mandatory, and cannot be overlooked or waived. The law requires the Commission to dismiss appeals for jurisdictional failures. This is true even where the appellant is an unrepresented. See e.g. Beverly Jo Dobbin Williams v. Mason, supra; Charles & Loretta Mertens v. Mason, appeal #494 (July 16, 1992); Hanely Hardin v. Division, supra.

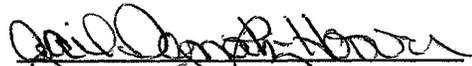
In order to invoke the jurisdiction of the Commission, an appellant must serve a copy of the notice of appeal upon the Chief within three days after filing the notice with the Commission. By law, the failure of an appellant to comply with these procedures results in the dismissal of an appeal. Art &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

ORDER

The Oil & Gas Commission has read and considered the Appellee's Motion to Dismiss. The Commission has also reviewed its prior orders and decisions. The Commission finds the Appellee's arguments well taken. WHEREFORE, the Commission **GRANTS** Appellee's Motion and **DISMISSES** appeal no. 671, with prejudice.


WILLIAM J. TAYLOR, Chairman


JAMES H. CAMERON


GAIL IGNATZ-HOOVER

RECUSED
BENITA KAHN, Secretary

JOHN A. GRAY

INSTRUCTIONS FOR APPEAL

This decision may be appealed to the Court of Common Pleas of Franklin County, within thirty days of your receipt of this Order, in accordance with Ohio Revised Code Section §1509.37.

DISTRIBUTION:

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Everflow Eastern