

Before the
Administrative Hearing Commission
State of Missouri



DELORES JONES,)	
)	
Petitioner,)	
)	
vs.)	No. 13-2006 EC
)	
MISSOURI ETHICS COMMISSION,)	
)	
Respondent.)	

DECISION

We dismiss the complaint filed by Delores Jones for lack of jurisdiction because it was untimely filed.

Procedure

On November 21, 2013, Jones filed a complaint seeking review of an assessment of \$280 in late fees by the Missouri Ethics Commission (the "MEC"). We sent the MEC our notice of complaint and hearing notice on November 22, 2013.

On December 17, 2013, the MEC filed a motion for involuntary dismissal, or in the alternative, motion for summary decision (the "motion"), along with exhibits authenticated by an affidavit of its custodian of records, James Klahr. We gave Jones until January 7, 2014 to respond to the MEC's motion, but she failed to do so.

Pursuant to 1 CSR 15-3.446(6)¹, we may decide this case without a hearing if the MEC establishes facts Jones does not genuinely dispute and entitle the MEC to a favorable decision. Facts may be established by admissible evidence such as a stipulation, pleading of the adverse party, discovery responses of the adverse party, affidavits, or any other evidence admissible under law.² We make our findings of fact based on the authenticated business records of the MEC accompanying the motion, and on Jones' pleadings.

Findings of Fact

1. At all relevant times, Jones was an alderman, an elected official, in Velda City, Missouri.
2. By its letter dated June 4, 2013, the MEC advised Jones that her Personal Financial Disclosure Statement ("PFDS") was received by the MEC on May 29, 2013, 28 days after the due date of May 1. Enclosed with the letter was a fee statement indicating the date her PFDS was due, the date it was filed, and the amount due the State of Missouri (\$280), with instructions that she return the bottom portion of the fee statement with a check for the amount of late fees within fifteen days of the date of the letter.
3. The MEC's letter also advised Jones of her right to appeal the assessment of late fees by filing a complaint with this Commission within fourteen days of the June 4, 2013 date of the letter, and provided the mailing address and telephone number of this Commission.
4. On November 21, 2013, Jones, *pro se*, filed a one-page letter with this Commission seeking review of the MEC's assessment of a late fee (the complaint). Jones' complaint further stated, "I contacted the Missouri Ethics Commission regarding this matter in August, and the person that I spoke with stated that I can send a letter regarding this issue."

¹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

² 1 CSR 15-3.446(6)(B).

Conclusions of Law

Relying on § 105.963.4, RSMo, the MEC argues that Jones' complaint was untimely filed. We agree. The statute provides, in pertinent part:

Any person assessed a late filing fee may seek review of such assessment or the amount of late filing fees assessed, at the person's option, ***by filing a petition within fourteen days after receiving actual notice of assessment with the administrative hearing commission***, or without exhausting the person's administrative remedies may seek review of such issues with the circuit court of Cole County.

(Emphasis added.)

While the record before us does not reflect the date Jones received actual notice of the assessment, her complaint makes reference to her having contacted the MEC regarding the matter in August. If the MEC's June 4, 2013 letter notifying Jones of the assessment was not received immediately, she certainly must have received it by August, 2013, when she alleges she contacted the MEC to discuss the late fees. Giving Jones the benefit of the doubt and allowing that she may not have had actual notice of the assessment until the very last day of August, we nevertheless must conclude she failed to seek review of the MEC's assessment within fourteen days after receiving such notice, as her appeal was not filed with this Commission until November 21, 2013, nearly ninety days later.

The untimely filing of Jones' complaint deprives us of jurisdiction to hear it.³ If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss.⁴

³ *Community Fed. Sav. & Loan Assoc. v. Director of Revenue*, 752 S.W.2d 794, 799 (Mo. 1988); *Springfield Park Cent. Hosp. v. Director of Revenue*, 643 S.W.2d 599, 600 (Mo. 1984).

⁴ *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App. E.D. 2000).

Summary

Because Jones' complaint was untimely filed, we lack jurisdiction to hear it. We grant the MEC's motion to dismiss, and cancel the hearing.

SO ORDERED on January 13, 2014.

\s\ Mary E. Nelson
MARY E. NELSON
Commissioner