

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARBARA P. KIMSEY AND RONALD J.
KIMSEY,
Appellants,
vs.
JEFFREY G. SCHOOR; WTR LLC, A
NEVADA LIMITED LIABILITY
COMPANY; AND HIGHLAND
DEVELOPMENT CO., D/B/A
WESTMARK HOMES, A NEVADA
CORPORATION,
Respondents.

No. 44561

FILED

SEP 23 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court judgment confirming a private arbitration decision. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On July 27, 2005, we entered an order to show cause why this appeal should not be dismissed for lack of jurisdiction. As the parties' responses concede, the appeal should have been taken from the final order entered by the district court on December 6, 2004. Notice of entry of that order was served by mail on December 16, 2004.

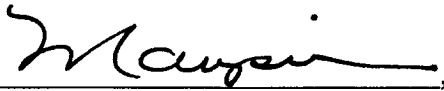
Under NRAP 4(a)(1), a notice of appeal must be filed within thirty days after the date that the notice of entry of the order being appealed is served. When service is by mail, an additional three days is added under NRAP 26(c). Under our prior decisions, the thirty-three days for filing an appeal is first calculated.¹ Only if the thirty-third day falls on


¹See Custom Cabinet Factory of N.Y. v. Dist. Ct., 119 Nev. 51, 62 P.3d 741 (2003); Ross v. Giacomo, 97 Nev. 550, 635 P.2d 298 (1981).

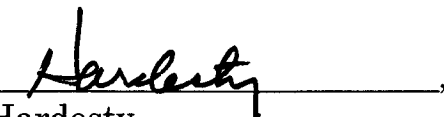
a Saturday, Sunday or non-judicial day does NRAP 26(a) extend the period for filing until the end of the next day.

The time for filing an appeal is jurisdictional, and an untimely appeal may not be considered.² In this case, the thirty-third day fell on Tuesday, January 18, 2005, which was not a non-judicial day. Because the notice of appeal was not filed until January 19, 2005, this appeal is untimely and we have no jurisdiction to consider it. Accordingly, we dismiss this appeal.

It is so ORDERED.

 J.

Maupin
 J.
Gibbons

 J.
Hardesty

cc: Hon. Michelle Leavitt, District Judge
Cobeaga Tomlinson, LLP
Kummer Kaempfer Bonner & Renshaw/Las Vegas
Clark County Clerk

²Ross, 97 Nev. 550, 635 P.2d 298.