

IN THE SUPREME COURT OF THE STATE OF NEVADA

LANDCOR PROPERTIES,  
Appellant,  
vs.  
RYLAND HOMES NEVADA, LLC,  
Respondent.

No. 55517

**FILED**

JUL 20 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court summary judgment. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Respondent has moved to dismiss this appeal, arguing that appellant's February 22, 2010, notice of appeal was untimely filed, more than 33 days after service of the summary judgment's written notice of entry. See NRAP 4(a)(1); NRAP 26(c). Citing NRCP 6(a), appellant opposes the motion, arguing that because the challenged order's notice of entry was served by mail on Friday, January 15, 2010, the time for filing the notice of appeal did not begin to toll until January 20, making the February 22, 2010, notice of appeal timely.

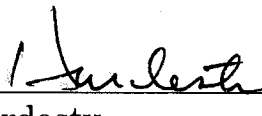
Having considered the motion to dismiss and the opposition thereto,<sup>1</sup> we grant it. The rules governing the time for filing a notice of appeal are NRAP 4 and NRAP 26, and under those rules, when a notice of entry of an appealable order is served by mail, an aggrieved party has 33

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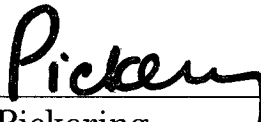
<sup>1</sup>Respondent filed a reply to appellant's opposition on June 8, 2010, but because the reply was untimely and not accompanied by a motion for an extension of time, it was not considered in resolving this matter. See NRAP 27(a)(4) (providing that a reply must be filed within five days after service of a response); see also NRAP 26(b) (governing time extensions).

days to file its notice of appeal. NRAP 4(a)(1) and NRAP 26(c). Thus, in order to be timely, appellant's notice of appeal had to be filed by February 17, 2010, which is 33 days after the summary judgment's notice of entry was served by mail.<sup>2</sup> Because appellant's February 22, 2010, notice of appeal is untimely, we lack jurisdiction to consider the appeal, and we

ORDER this appeal DISMISSED.<sup>3</sup>

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Michael Villani, District Judge  
Thomas J. Tanksley, Settlement Judge  
Law Offices of Michael F. Bohn, Ltd.  
Duane Morris LLP  
Eighth District Court Clerk

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<sup>2</sup>Although appellant cited NRCP 6(a) in its opposition, NRAP 26(a) applies here. Under that rule, the first day of an act is excluded in the computation, but the last day is included, unless it is a Saturday, Sunday, or nonjudicial day. NRAP 26(a)(1) and (3). Here, the last day of the 33-day appeal period fell on Wednesday, February 17, 2010, a judicial day, and it is inconsequential that notice of entry was mailed on a Friday, as, under the rules, that fact does not add 3 extra days to the limitation period, as appellant asserts. See NRAP 4(a); NRAP 26(a) and (c).

<sup>3</sup>In light of this order, we deny as moot respondent's February 4, 2010, motion to strike the docketing statement.