

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK KADDIK AND KATHRYN
MATTOS KADDIK,
Appellants,
vs.
JOHN JOSEPH CHIAPPONE AND
GARY KEVIN NESS,
Respondents.

No. 40621

FILED

FEB 05 2003

ORDER DISMISSING APPEAL

JANETTE M. BROWN
CLERK OF SUPREME COURT
By: *J. Richards*
JUDICIAL DEPT. Y-0518K

This is a proper person appeal from a district court judgment in a real property case. The timely filing of a notice of appeal is jurisdictional.¹ A notice of appeal must be filed no later than thirty days after service of notice of the judgment's entry.² Three days are added to that period when the notice of entry is served by mail.³

The time to appeal is tolled, however, upon the timely filing of certain post-judgment motions, such as a motion for new trial.⁴ A notice of appeal filed before the formal disposition of a tolling motion has no effect.⁵

Here, notice of the judgment's entry was served by mail on October 17, 2002. On October 28, 2002, appellants filed a timely motion for new trial, tolling the appeal period. But appellants filed their notice of

¹Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

²NRAP 4(a)(1).

³NRAP 26(c).

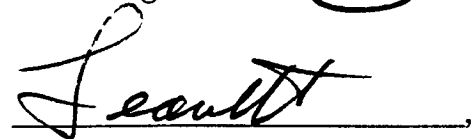
⁴NRAP 4(a)(2); see also NRCP 59(b).


⁵Id.

appeal on December 4, 2002 – five days before the district court formally resolved the motion for a new trial. Thus, the notice of appeal failed to confer jurisdiction on this court.

Accordingly, because we lack jurisdiction over this appeal, we ORDER this appeal DISMISSED.⁶

 J.
Shearing

 J.
Leavitt

 J.
Becker

cc: Hon. Archie E. Blake, District Judge
Wayne A. Pederson
Frank Kaddik
Kathryn Mattos Kaddik
Gary Kevin Ness
Lyon County Clerk

⁶Based on the documents before this court, we cannot discern whether a notice of entry regarding the order denying appellants' new trial motion has been served upon appellants. We note that a notice of appeal must be filed no later than thirty days from the service of written notice of entry of an order resolving a tolling motion. NRAP 4(a)(2).