

IN THE SUPREME COURT OF THE STATE OF NEVADA

PAULA EAMES PERRY,
Appellant,
vs.
ANYTIME PLUMBING INC., A
DELAWARE CORPORATION; AND
DONIE JAMES RISEDEN,
INDIVIDUALLY,
Respondents.

No. 41613

FILED

JAN 23 2006

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

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order dismissing the underlying case. Eighth Judicial District Court, Clark County; Kathy A. Hardcastle, Judge.

Respondents have moved to dismiss this appeal based on their contention that (1) appellant's notice of appeal was untimely filed and (2) appellant's failure to file her civil proper person appeal statement. Appellant has not filed an opposition to the motion to dismiss.

Respondents first contend that appellant filed her notice of appeal outside of the thirty-day period provided in NRAP 4(a). We disagree. NRAP 4(a)(1) requires that a notice of appeal be filed in the district court no later than thirty days after written notice of the order's entry is served. When service of the notice of entry is made by mail, an appellant is given an additional three days to file his or her notice of

appeal.¹ Here, written notice of the order of dismissal's entry was served on appellant by mail on May 16, 2003. Appellant thus had thirty-three days, until June 18, 2003, to file her notice of appeal in the district court.² Appellant's notice of appeal was filed in the district court on June 17, 2003, within the required period. The June 24, 2003, filing date on which respondents base their argument that the notice of appeal was untimely filed is the date that the notice of appeal was filed in this court. This date is irrelevant for the purposes of determining whether a notice of appeal is timely filed. The relevant date is the date the notice of appeal is filed in the district court.³ Accordingly, as appellant filed her notice of appeal in the district court within the thirty-three day period, we conclude that appellant's notice of appeal was timely filed.

Respondents' second contention is that this appeal should be dismissed based on appellant's failure to file her civil proper person appeal statement. On September 9, 2005, this court entered an order directing appellant to file her civil proper person appeal statement by October 19, 2005. To date appellant has not filed a civil appeal statement or otherwise responded to this court's directive. Moreover, respondents' motion to dismiss was filed on November 9, 2005, and to date, appellant has not filed an opposition or any other response to respondents' motion. Based on


¹NRAP 26(c).

²NRAP 4(a)(1); NRAP 26(c).


³NRAP 4(a)(1).

appellant's failure to respond in any way to either this court's October 19 order or respondent's motion to dismiss, we conclude that appellant has abandoned this appeal and therefore we grant respondents' motion and dismiss the appeal.

It is so ORDERED.


_____, J.

Maupin


_____, J.

Gibbons


_____, J.
Hardesty

cc: Hon. Kathy A. Harcastle, District Judge
Paula Eames Perry
Lewis Brisbois Bisgaard & Smith, LLP
Clark County Clerk