

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on May 19, 2014

**BARBARA G. LOVEJOY v. DEPARTMENT OF INTELLECTUAL AND
DEVELOPMENTAL DISABILITIES**

**Appeal from the Chancery Court for Davidson County
No. 13165IV Russell T. Perkins, Chancellor**

No. M2014-00210-COA-R3-CV - Filed May 21, 2014

This is an appeal from an order dismissing a petition for judicial review of a decision of the Tennessee Civil Service Commission. Because the appellant did not file her notice of appeal with the trial court clerk within the time permitted by Tenn. R. App. P. 4, we dismiss the appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

FRANK G. CLEMENT, JR., P.J., M.S., ANDY D. BENNETT, and RICHARD H. DINKINS, J.J.

Barbara G. Lovejoy, Murfreesboro, Tennessee, Pro Se.

Eugenie B. Whitesell, Nashville, Tennessee, for the appellee, Tennessee Department of Intellectual & Development Disabilities.

MEMORANDUM OPINION¹

Barbara G. Lovejoy was employed by the Department of Intellectual and Developmental Disabilities as a Licensed Practical Nurse. The Department terminated Ms. Lovejoy's employment in February of 2011. The Tennessee Civil Service Commission entered a final order upholding the termination on December 11, 2012. Ms. Lovejoy

¹Tenn. Ct. App. R. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

subsequently filed a pro se petition in the Chancery Court for Davidson County seeking judicial review of the Commission's decision. On November 27, 2013, the trial court affirmed the Commission's final order and dismissed the case. Ms. Lovejoy filed a notice of appeal with the trial court clerk on January 14, 2014.

Tenn. R. App. P. 4(a) requires that a notice of appeal be filed with and received by the trial court clerk within thirty (30) days after entry of the judgment appealed. Ms. Lovejoy did not file her notice of appeal until forty-eight (48) days after entry of the judgment. On April 23, 2014, this court ordered Ms. Lovejoy to show cause within fourteen days why her appeal should not be dismissed. Ms. Lovejoy has not filed a response.

The time limit for filing a notice of appeal is mandatory and jurisdictional. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *Binkley v. Medling*, 117 S.W.3d 252, 255 (Tenn. 2003). This court can neither waive nor extend the time period. Tenn. R. App. P. 2 and 21(b); *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d 856, 869 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Serv. Corp.*, 699 S.W.2d 181, 184 (Tenn. Ct. App. 1985). The failure to file a timely notice of appeal deprives this court of jurisdiction to hear the matter. *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d at 869.

The appeal is hereby dismissed for failure to file a timely notice of appeal. The costs of the appeal are taxed to Barbara G. Lovejoy for which execution may issue.

PER CURIAM