

**IN THE COURT OF APPEALS  
ELEVENTH APPELLATE DISTRICT  
PORTAGE COUNTY, OHIO**

DANA RIVKIND,	:	<b>MEMORANDUM OPINION</b>
Plaintiff-Appellant,	:	
- vs -	:	<b>CASE NO. 2020-P-0080</b>
PAUL A. KREMPEC,	:	
Defendant-Appellee.	:	

Civil Appeal from the Court of Common Pleas, Case No. 2018 CV 00193.

Judgment: Appeal dismissed.

*Michael Shaut*, 20600 Chagrin Boulevard, Suite 470, Shaker Heights, OH 44122 (For Plaintiff-Appellant).

*Gerrit M. denHeijer*, Giulitto Law Office, LLC, 222 West Main Street, P.O. Box 350, Ravenna, OH 44266 (For Defendant-Appellee).

CYNTHIA WESTCOTT RICE, J.

{¶1} Appellant, Dana Rivkind, through counsel, filed an appeal on October 20, 2020, from a Portage County Court of Common Pleas entry.

{¶2} App.R. 3(A) expressly states that the only jurisdictional requirement for filing a valid appeal is to file it within the time allowed by App.R. 4. The Supreme Court has held that the failure to comply with the time requirements of App.R. 4(A) is a jurisdictional defect, which is fatal to an appeal. *In re H.F.*, 120 Ohio St.3d 499, 2008-Ohio-6810, ¶ 17, citing *State ex rel. Pendell v. Adams Cty. Bd. of Elections*, 40 Ohio St.3d 58, 60 (1988).

{¶3} “Subject to the provisions of App.R. 4(A)(3), a party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry.” See App.R. 4(A)(1). Civ.R. 58(B) directs the clerk of courts to serve the parties with notice of the entry within three days of entering the judgment upon the journal. If Civ.R. 58(B) service does not occur within three days, the time to appeal does not begin to run until service is made and noted in the appearance docket. *Coles v. Lawyers Title Ins. Corp.*, 163 Ohio App.3d 659, 664, 2005-Ohio-5360.

{¶4} Here, the record shows the trial court issued its entry on July 31, 2020. The clerk of courts noted on the appearance docket that service of the entry under Civ.R. 58(B) was made to the parties on that same date. Since appellant was served within the three-day period required in Civ.R. 58(B), the thirty-day period began to run on the date of entry of judgment, i.e. July 31, 2020. The deadline for appellant to file its notice of appeal was August 31, 2020, which was not a holiday or a weekend. Thus, appellant’s October 20, 2020 appeal was untimely filed.

{¶5} This court is not empowered to extend the time deadline in civil cases. *Pendell, supra*, at 60; *see also* App.R. 14(B).

{¶6} Based upon the foregoing, this appeal is hereby sua sponte dismissed pursuant to App.R. 4(A)(1).

MATT LYNCH, J.,

MARY JANE TRAPP, J.,

concur.