

*** NOT FOR PUBLICATION ***

NO. 27137

IN THE SUPREME COURT OF THE STATE OF HAWAII

EUGENE L. SABADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2005 JUL 15 AM 9:21

FILED

IN THE MATTER OF THE TAX APPEAL
OF
DIRECTOR OF TAXATION, STATE OF HAWAII, Appellant-Appellee,
vs.
MEDICAL UNDERWRITERS OF CALIFORNIA, Appellee-Appellant.

APPEAL FROM THE TAX APPEAL COURT
(CASE NO. 00-0061)

ORDER DISMISSING APPEAL
(By: Nakayama, J. for the court¹)

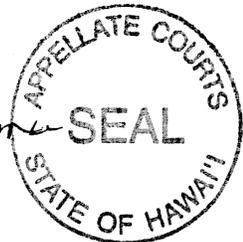
Upon review of the record, it appears that an order disposing of the January 28, 2005 motion has not been entered on the record of Tax Appeal Case No. 00-0061. See HRAP 4(a)(5) ("A judgment or order is entered when it is filed in the office of the clerk of the court."). The January 28, 2005 motion was not deemed denied under the 90-day provision of HRAP 4(a)(3) inasmuch as the January 28, 2005 motion was not filed within ten days after entry of the September 13, 2004 final judgment. Absent entry of an order disposing of the January 28, 2005 motion, this appeal is premature and we lack jurisdiction. See HRS § 232-19; Tax Appeal Court Rule 2. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawaii, July 15, 2005.

FOR THE COURT:

Aruna C. Nakayama
Associate Justice



¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.