

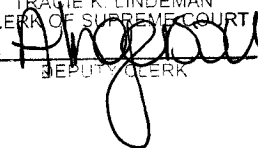
IN THE SUPREME COURT OF THE STATE OF NEVADA

BOYD GAMING CORPORATION,  
Appellant/Cross-Respondent,  
vs.  
CITY OF HENDERSON,  
Respondent,  
and  
THE STATE OF NEVADA  
DEPARTMENT OF TAXATION,  
Respondent/Cross-Appellant.

No. 62154

**FILED**

JUN 17 2013

TRAGIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal and cross-appeal from a district court order granting in part and denying in part a petition for judicial review of a Nevada Tax Commission decision. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.


When our preliminary review of the docketing statement and the NRAP 3(g) documents revealed a potential jurisdictional defect, we ordered the parties to show cause why this appeal and cross-appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the district court had not entered a final, written order adjudicating all the rights and liabilities of all the parties, as sought in the petition for judicial review. NRS 233B.150; NRAP 3A(b)(1); *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000). In particular, appellant sought a refund of the use taxes it paid in relation to complimentary patron and employee meals. While the district court affirmed the Tax Commission's decision to deny a refund in relation to complimentary patron meals, it reversed the Tax Commission's decision to deny a refund with regard to the use taxes paid in relation to complimentary employee meals and reserved determination of the refund amount due for a future date. Thus, as the court neither determined the amount of refund due under its decision nor remanded that issue to the administrative agency for resolution, it appeared that the

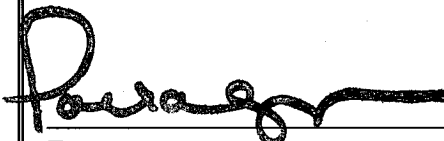
refund amount issue remained pending below, rendering the district court's decision interlocutory and nonappealable.

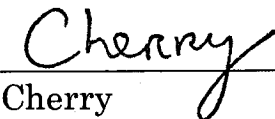
In their timely responses to our show cause order, the parties point out that they stipulated below to the amount of use tax paid on employee meals and, thus, that part of the amount of any refund due is not at issue. The parties also point to pending arguments regarding whether the requested refund should be offset against other taxes due and whether appellant is entitled to interest on the refund amount, however. Nevertheless, appellant urges this court to deem the district court's decision final and appealable. Cross-appellant asserts that these issues remain unresolved and that the matter should thus be remanded for further proceedings at the administrative level.

Because the district court has neither remanded this matter to the administrative agency to determine these issues nor ruled on these issues and the refund amount due itself, we conclude that they remain pending in the district court, such that no final judgment has been entered over which we may exercise jurisdiction. NRAP 3A(b)(1); NRS 233B.150. Accordingly, we

ORDER this appeal and cross-appeal DISMISSED.<sup>1</sup>

  
Hardesty, J.

  
Parraguirre, J.

  
Cherry, J.

<sup>1</sup>This dismissal does not preclude any aggrieved party from filing a timely appeal or cross-appeal from the district court's final judgment once it is entered. NRAP 3A(b)(1); *Bally's Grand Hotel & Casino v. Reeves*, 112 Nev. 1487, 1488-89, 929 P.2d 936, 937 (1996).

cc: Hon. Gloria Sturman, District Judge  
John Bartlett, Attorney at Law  
Henderson City Attorney  
Attorney General/Las Vegas  
Eighth District Court Clerk