

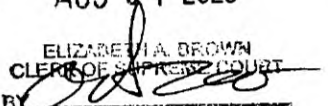
IN THE SUPREME COURT OF THE STATE OF NEVADA

DOROTHY LUBIN,  
Appellant,  
vs.  
EXTENDED STAY AMERICA; AND  
BROADSPIRE; AND DEPARTMENT OF  
ADMINISTRATION APPEALS OFFICE,  
Respondents.

No. 86136

**FILED**

AUG 04 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is an appeal from a district court order denying a petition for judicial review. Eighth Judicial District Court, Clark County; Susan Johnson, Judge.

When initial review of the docketing statement and documents before this court revealed a potential jurisdictional defect, this court ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. In particular, it appeared the notice of appeal was prematurely filed in the district court after the filing of a timely tolling motion for reconsideration but before entry of a written order finally resolving that motion. *See* NRAP 4(a)(4); *AA Primo Builders LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010). It further appeared the tolling motion remained pending in the district court.

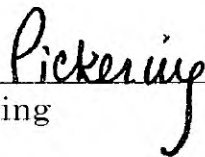
In response, appellant appears to concede that no order resolving the motion for reconsideration has been entered in the district court. However, appellant asserts the motion is not a tolling motion because it was not filed pursuant to NRCP 50(b), NRCP 52(b), NRCP 59, or NRCP 60. The motion for reconsideration was in writing, timely filed, stated its grounds with particularity, and requested that the court substantively alter the judgment. Accordingly, the motion is properly treated as a motion to

alter or amend the judgment under NRCP 59(e) and afforded tolling effect under NRAP 4(a)(4). *See AA Primo Builders*, 126 Nev. at 585, 245 P.3d at 1195. Appellant's reliance on NRS 233B.130(4) is misplaced; that statute refers to petitions for rehearing or reconsideration of the final agency decision.

As the notice of appeal was prematurely filed before entry of a written order resolving the motion for reconsideration, and no written order has been entered to date, the notice of appeal is premature and this court lacks jurisdiction. *See NRAP 4(a)(6)*. Accordingly, this court

ORDERS this appeal DISMISSED.<sup>1</sup>

  
\_\_\_\_\_, J.  
Cadish

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Susan Johnson, District Judge  
Janet Trost, Settlement Judge  
Gerald F. Neal  
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas  
Eighth District Court Clerk

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<sup>1</sup>Appellant's request that this court stay its decision until the district court complies with NRCP 58(b)(2) is denied. Appellant may file a new notice of appeal once the district court enters a written order resolving the motion for reconsideration. It is noted that the district court minute entries reflect that the district court ordered counsel for respondent to prepare an order resolving the motion on March 9, 2023.