

UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa,

In the Matter of

HAROLD H. RIEF,

Debtor.

Case No. 87-1426-W

Chapter 11

ORDER ON MOTION TO EXTEND TIME TO PERMIT FILING OF
NOTICE OF APPEAL

At Des Moines, in the Southern District of Iowa, on the 12th day of May, 1988.

On April 19, 1988 the above named debtor filed a motion to declare appeal properly filed as of April 1, 1988 and to extend time to permit filing as of April 4, 1988 or thereafter. The court finds that the motion is unnecessary as the notice of appeal filed on April 4, 1988 was timely.

Bankruptcy Rule 8002(a) prescribes a ten day period after the entry of a judgment, order, or decree for the filing of a notice of appeal. Rule 8002(b) alters the running of the ten day appeal period upon the timely filing of certain post-order motions. Pursuant to Rule 8002(b) the time for appeal runs from the entry of an order granting or denying such motion. Computation of any period of time prescribed by the bankruptcy rules is explained in Bankruptcy Rule 9006(a). The rule was amended in 1987 to provide that "[w]hen the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation".

In this case, and two related cases, the court issued an order on application to sequester rents and profusion February 29, 1988. On March 10, 1988 the debtor filed a motion to reconsider and vacate the February 29, 1988 order. This court denied the motion to reconsider on March 22, 1988.

On April 1, 1988 a notice of appeal was filed listing this case as well as the two other related cases. Only one statutory fee of \$105.00 was attached. Since the cases had not been consolidated the clerk of this court informed debtors' counsel that only the Darrell and Pamela Rief case would be accepted as filed. Debtors' counsel then sent additional notices and filing fees in the remaining two cases. The notice of appeal and filing fee in this case was filed on April 14, 1988.

The ten day period for filing a notice of appeal, as prescribed by Rule 8002(a) and computed by Rule 9006(a), began on March 23, 1988 and ended on April 5, 1988. Accordingly the debtor's notice of appeal in this case was timely filed.

THEREFORE, based on the foregoing analysis, the debtor's motion to extend the time for filing the notice of appeal is unnecessary as the notice of appeal filed on April 4, 1988 was timely filed.

LEE M. JACKWIG

CHIEF U.S. BANKRUPTCY JUDGE