



INTERIOR BOARD OF INDIAN APPEALS

Frederick J. Houle, Jr. v. Commissioner of Indian Affairs

3 IBIA 135A (11/06/74)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ADMINISTRATIVE APPEAL OF : Order of Dismissal Without Prejudice
FREDERICK J. HOULE, JR. :
 :
 :
v. : IBIA 75-22-A
 :
 :
COMMISSIONER OF THE BUREAU :
OF INDIAN AFFAIRS : November 6, 1974

The Commissioner, appearing by the Solicitor, has filed herein: (1) copies of the four specific items required by the notice of docketing issued October 16, 1974; and (2) a motion to dismiss.

The Commissioner's motion to dismiss the appeal for lack of jurisdiction is supported by a memorandum in which he makes the following statement:

The decision attached to the Notice of Docketing is, as stated in the notice, a proposed one. It was prepared for the Commissioner's signature; but it has not been signed and is a nullity until it is.

The appeal in this matter, received September 24 from the Office of the Deputy Commissioner was enclosed in a memorandum as follows:

Please find attached Mr. Houle's appeal of July 24 together with Personnel Management Services staff report from the Bureau of Indian Affairs.

Your expeditious review of this requestor's appeal would be appreciated.

The record on appeal as transmitted does not include any order signed by the Commissioner.

Upon the basis of the allegations contained in the motion to dismiss, and on the record before the Board, a finding is made that the appeal was prematurely filed and docketed, and that the same should be dismissed without prejudice.

NOW, THEREFORE, by the authority of the delegations contained in the amendment to the Departmental Manual on December 14, 1973, (211 DM 13.7) and in 43 CFR 4.1 it is ORDERED that the appeal of Frederick J. Houle, Jr., to the Board of Indian Appeals be and the same is hereby dismissed without prejudice.

//original signed
David J. McKee
Chief Administrative Judge

I concur:

//original signed
Alexander H. Wilson
Administrative Judge