



INTERIOR BOARD OF INDIAN APPEALS

Estate of Kelly Frank Freeman

7 IBIA 169 (07/17/1979)

Denying reconsideration of:

7 IBIA 147



United States Department of the Interior

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

ESTATE OF KELLY FRANK FREEMAN : Order Denying Petition For
: Reconsideration
Deceased Allottee No. 2647 of the :
Fort Peck Indian Reservation : IBIA 79-15 (Supp.)
Reservation :
: July 17, 1979

By memorandum dated July 13, 1979, Administrative Law Judge Alexander H. Wilson forwarded to the Board of Indian Appeals a letter from Kenneth Freeman to the Fort Peck Indian Agency which Judge Wilson advised should probably be regarded as a petition for reconsideration of the Board's order dated May 25, 1979 (7 IBIA 147), wherein Kenneth Freeman's appeal from an order in the Estate of Kelly Frank Freeman entered December 28, 1977, was dismissed. We agree that the foregoing letter should be treated as a petition for reconsideration of the Board's May 25, 1979 order.

In accordance with the authority delegated to the Board of Indian Appeals by the Secretary of the Interior under 43 CFR 4.1, the Board's dismissal of Kenneth Freeman's appeal on May 25, 1979, was made final for the Department. At 43 CFR 4.21(c) it is provided that reconsideration of a decision of an Appeals Board may be granted only in extraordinary circumstances where, in the judgment of the Director of the Office of Hearings and Appeals or an Appeals Board, sufficient reason appears therefor.

In the case at hand no extraordinary circumstances are perceived which, in the Board's opinion, warrant reconsideration of this case. Kenneth Freeman was provided ample opportunity to submit reasons in support of his appeal and failed to do so during or even beyond the time allowed by departmental regulations and specific notice. Pursuant to 43 CFR 4.291(a), the Board acted within its authority in dismissing the subject appeal for "[f]ailure to specify the basis relied upon . . ."

Therefore, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior under 43 CFR 4.1 and 4.21(c), the Petition for Reconsideration filed by Kenneth Freeman with the Fort Peck Agency, Poplar, Montana, and received by the Board on July 16, 1979, is hereby denied.

//original signed
Wm. Philip Horton
Chief Administrative Judge

I concur:

//original signed
Mitchell J. Sabagh
Administrative Judge