



INTERIOR BOARD OF INDIAN APPEALS

Claire P. Smith v. Acting Billings Area Director, Bureau of Indian Affairs

17 IBIA 285 (09/13/1989)

Denying reconsideration of:

17 IBIA 231

Related Board cases:

19 IBIA 72

22 IBIA 148

28 IBIA 87



United States Department of the Interior

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

CLAIRE P. SMITH,	:	Order Denying Reconsideration
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 89-62-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	September 13, 1989

On September 5, 1989, the Board of Indian Appeals (Board) received a request for reconsideration from appellant Claire P. Smith. By decision dated August 18, 1989, the Board affirmed a June 10, 1988, decision of the Acting Billings Area Director, Bureau of Indian Affairs, finding that appellant's cattle were in trespass on certain Indian allotments primarily owned by appellant, but leased to Tim Kimmet (Kimmet). 17 IBIA 231.

Under 43 CFR 4.315 (54 FR 6486 (Feb. 10, 1989)), reconsideration may be granted "only in extraordinary circumstances." Appellant's request for reconsideration asks the Board to find that she signed the leases at issue in this appeal with the understanding that she had "the absolute right to run her cattle on the lease after harvest subject to the approval of the BIA" (Motion at 2). Appellant further states that she would not have executed the leases without this agreement, and asks the Board either to hold that she has the right to run her cattle on the leased properties after the harvest and subject to BIA approval, or to declare the BIA leases null and void for failure of consideration and mutual misunderstanding.

The issues appellant raises were considered in the Board's August 18, 1989, decision. Appellant's disagreement with the Board's legal conclusions and continued belief she has the right to run her cattle on the leased properties after the harvest do not, however, amount to the type of extraordinary circumstances envisioned in the Board's reconsideration regulation.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this motion for reconsideration is denied.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge

1/ This order in no way restricts appellant's right to work with BIA and Kimmet to modify the leases, if the parties so desire.