



INTERIOR BOARD OF INDIAN APPEALS

Winnebago Tribe of Nebraska v. Aberdeen Area Director, Bureau of Indian Affairs

18 IBIA 441 (09/20/1990)



United States Department of the Interior

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

WINNEBAGO TRIBE OF NEBRASKA,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 90-102-A
ABERDEEN AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	September 20, 1990

On May 31, 1990, the Board of Indian Appeals (Board) received a notice of appeal from the Winnebago Tribe of Nebraska (appellant), through its Chairman, John Blackhawk. Appellant seeks review of a May 8, 1990, decision issued by the Aberdeen Area Director, Bureau of Indian Affairs (BIA; Area Director), denying its fiscal year (FY) 1990 Core Management grant application. For the reasons discussed below, the Board affirms that decision.

On March 15, 1990, appellant filed a timely application for an FY 1990 Core Management grant with the Winnebago Agency, BIA. The application package was reviewed by the Agency and, on March 28, 1990, was forwarded to the Area Director with a recommendation that it be approved.

The Aberdeen Area Office received four applications, requesting a total of \$142,654.56, under the FY 1990 Core Management program, while receiving only \$80,000 for that program. Appellant's application was again reviewed by the Area Office. Its cumulative score placed it third out of the four applicants. Based upon this review, the Area Director informed appellant by letter dated May 8, 1990, that he was unable to fund its FY 1990 Core Management application.

The Board received appellant's appeal from this decision on May 31, 1990. The notice of appeal states in its entirety:

On May 23, 1990, my office [that of appellant's Chairman] received a certified letter of the denial notification of fiscal year 1990 Core Management Grant. This letter is notification of Intent to Appeal this decision made by the Aberdeen Area Office.

According to the regulations in 43 CFR 4.310-4.340, our Tribe has 30 days to appeal this decision. Documents will be forthcoming.

Thank you for your time and consideration.

The Board received the administrative record in this matter on June 29, 1990. By order of the same date, appellant was notified of its right to file an opening brief in support of its position. No additional information was received from appellant.

In appeals arising under 25 CFR Part 2, the appellant bears the burden of proving that the agency decision complained of was erroneous or not supported by substantial evidence. See Kays v. Acting Muskogee Area Director, 18 IBIA 431 (1990), and cases cited therein. In this case, the notice of appeal does not set forth any grounds for the appeal, and appellant has not filed a brief indicating those grounds. Because it has not given any reasons for the appeal, or attempted to show the error in the Area Director's decision, appellant cannot sustain its burden of proof.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the May 8, 1990, decision of the Aberdeen Area Director is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge