



INTERIOR BOARD OF INDIAN APPEALS

Paula L. Frank v. Acting Portland Area Director, Bureau of Indian Affairs

22 IBIA 165 (07/01/1992)



United States Department of the Interior

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

PAULA L. FRANK,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 91-100-A
ACTING PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	July 1, 1992

Appellant Paula L. Frank seeks review of an April 22, 1991, decision of the Acting Portland Area Director, Bureau of Indian Affairs (Area Director; BIA), denying her application for retroactive general assistance benefits. Appellant's claim was based on a settlement agreement in Kalispel Tribe of Indians v. Brown, No. C-88-126-JLQ (E.D. Wash. filed Mar. 15, 1988). For the reasons discussed below, the Board of Indian Appeals (Board) affirms the Area Director's decision.

Paragraph F of the agreement reached in Kalispel provided for the entry of a final decision "[d]irecting the * * * BIA to accept and process applications for retroactive General Assistance benefits from Indians who resided in the State of Washington and believe they would have been eligible for BIA General Assistance during any month from December 1987 through October 1989." The paragraph further provided that "[t]hose seeking retroactive benefits will have 90 days following the court's approval of this Amended Settlement Agreement to file an application for retroactive benefits." The settlement agreement was approved on March 26, 1990.

On April 22, 1991, the Area Director denied appellant's application on the grounds that it was not timely filed. The Area Director stated that, in order to be timely, applications had to be received and/or postmarked during the period of March 27 through June 27, 1990. He indicated that appellant's application was dated April 6, 1991.

Appellant does not dispute that her application was due at the agency on or before June 27, 1990, or that her application was dated April 6, 1991. Instead, she contends that she was prevented from filing a timely application by lack of diligence on the part of Spokane Legal Services Center, counsel for plaintiffs in Kalispel, in assisting her with the filing of her application; perhaps lack of assistance from the Yakima Tribe; and her own health problems and pregnancy. Because of these problem, appellant argues that her late filing should be excused.

Appellant's application was approximately 10 months late. Although the problems appellant encountered with filing her application are regrettable, it was her responsibility to file a timely application. Appellant has not shown cause why her late filing should be excused.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the April 22, 1991, decision of the Acting Portland Area Director is affirmed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge