



INTERIOR BOARD OF INDIAN APPEALS

Florence I. Smith v. Acting Billings Area Director, Bureau of Indian Affairs

29 IBIA 50 (01/24/1996)



United States Department of the Interior

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

FLORENCE I. SMITH,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 96-33-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	January 24, 1996

On January 23, 1996, the Board of Indian Appeals (Board) received a package of materials from Florence I. Smith. Nothing in the materials indicates why Smith sent them to the Board. However, one document, a letter dated September 5, 1995, and addressed to the Superintendent, Blackfeet Agency, Bureau of Indian Affairs (Superintendent; BIA), stated that it was an appeal from the Superintendent's August 8, 1995, decision concerning a grain elevator located within a Burlington Northern Railroad right-of-way on Blackfeet Allotment 2258.

The Board contacted the Billings Area Office, BIA, in order to determine whether that office had received an appeal from Smith. The Board was informed that an appeal had been received and that the Acting Billings Area Director had remanded the matter to the Superintendent in a decision dated November 1, 1995. The Area Office sent the Board a copy of the decision and of the return receipt card for Smith's copy of the decision.

The Area Director's decision stated that it could be appealed to the Board within 30 days from the date of receipt, and gave the Board's correct mailing address. The return receipt card for Smith's copy of the decision shows that she received the decision on November 2, 1995.

Although, as previously stated, Smith's purpose in sending the materials to the Board is not clear, it is conceivable that she was attempting to appeal the Area Director's November 1, 1995, decision. With that possibility in mind, the Board treats appellant's submission as a notice of appeal.

The package of materials sent to the Board is postmarked January 18, 1996. This is more than 30 days from November 2, 1995. Therefore, the notice of appeal is untimely, and must be dismissed under 43 CFR 4.332(a).

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the November 1, 1995, decision issued by the Acting Billings Area Director is docketed and dismissed. This dismissal does not affect the remand to the Superintendent.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge