



INTERIOR BOARD OF INDIAN APPEALS

Allan Phillip Bell v. Acting Billings Area Director, Bureau of Indian Affairs

29 IBIA 105 (02/28/1996)



United States Department of the Interior

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

ALLAN PHILLIP BELL,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 95-160-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	February 28, 1996

This is an appeal from a July 28, 1995, decision of the Acting Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), which cancelled Fort Belknap Farm and Pastures Leases 568-93-97, 573-93-97, 621-94-98, and 642-93-96 for failure to pay rent.

In his notice of appeal, appellant contended that BIA had changed the date for payment of the annual rental on his leases from May to January but had not informed him of the change. He also stated that he was having difficulty coming up with the rent.

In the notice of docketing for this appeal, the Board advised appellant of his right to file a brief and of the fact that he bore the burden of showing error in the Area Director's decision. Appellant did not file a brief. Accordingly, the Board decides this appeal on the basis of the administrative record and appellant's notice of appeal.

Copies of the four leases at issue are included in the record. Each lease shows that, for all years after the initial year of the lease, the annual rental payments were due on January 1. Appellant signed all four leases, signifying his acceptance of the lease terms. The Board rejects appellant's contention that BIA changed the rental payment dates.

The record shows that BIA followed the lease cancellation procedures in 25 CFR 162.14 and that it sent appellant the 10-day notice required by that section. The record also shows that appellant received the notice but failed either to pay the rent or to show why the leases should not be cancelled. Assuming arguendo that it would have been appropriate for BIA to take appellant's financial difficulties into consideration, it was incumbent upon appellant to raise that problem during the 10-day period. Appellant did not do so.

Statements made by appellant in his notice of appeal and in filings before the Area Director suggest that he believes he was entitled to special accommodations because he is Indian. The Board has stated on several

occasions that, in managing leases of Indian land, BIA bears a trust duty to the Indian landowners--not to the lessee, even if the lessee is Indian. E.g., Candelaria v. Sacramento Area Director, 27 IBIA 137 (1995). Accordingly, BIA's duty to collect rent, and a lessee's obligation to pay rent, is the same whether the lessee is Indian or non-Indian.

Appellant has failed to show error in the Area Director's decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Acting Billings Area Director's July 28, 1995, decision is affirmed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge