



INTERIOR BOARD OF INDIAN APPEALS

Bob Cannon v. Acting Anadarko Area Director, Bureau of Indian Affairs

33 IBIA 159 (02/12/1999)



# United States Department of the Interior

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

BOB CANNON,  
Appellant

v.

ACTING ANADARKO AREA DIRECTOR,  
BUREAU OF INDIAN AFFAIRS,  
Appellee

: Order Dismissing Appeal  
:  
:  
:  
: Docket No. IBIA 98-35-A  
:  
:  
: February 12, 1999

Appellant Bob Cannon sought review of an October 21, 1997, decision of the Acting Anadarko Area Director, Bureau of Indian Affairs (Area Director; BIA), holding that Farming and Grazing Lease No. 043976, covering Apache Allotment No. 3279-2, Richard Koseope, was invalid for failure to comply with the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4335 (1994). For the reasons discussed below, the Board of Indian Appeals dismisses this appeal as moot.

The lease was approved on September 28, 1993, by the Superintendent, Anadarko Agency, BIA (Superintendent). It had a term running from January 1, 1994, through December 31, 1998. Lease rentals of \$2,000 were payable on January 1 of each year.

In March 1997, the Superintendent notified Appellant that the lease was subject to cancellation for failure to pay the 1996 and 1997 rent and gave him ten days in which to show cause why the lease should not be cancelled. On April 7, 1997, Appellant paid the 1996 rent plus interest. By letter dated May 12, 1997, the Superintendent cancelled the lease because of the rental delinquency. Appellant paid the 1997 rent plus interest on June 10, 1997.

By letter dated June 12, 1997, Appellant appealed to the Area Director, contending that he had paid the rent, and therefore was in good standing. The Area Director gave the Superintendent an opportunity to state his position in regard to the appeal in light of the fact that Appellant had paid the rent. The Superintendent indicated that he had not altered his position that the lease should be cancelled.

On October 21, 1997, the Area Director issued the decision under appeal here. After discussing several other issues, he held that the lease was invalid for failure to comply with NEPA.

Appellant appealed to the Board. Although advised of his right to do so, Appellant did not file an opening brief. The Area Director also did not file a brief.

On March 6, 1998, the Board received a letter from the Area Director enclosing a Notice of Discharge of Debtor in In re Bob G. Cannon, Case No. 97-20651 (Bankr. W.D. Okla. Feb. 17, 1998). The Notice was addressed to the Anadarko Area Office. The Area Director's transmittal letter stated: "Neither the Anadarko Agency or this office was aware of this case. It appears that it might affect [Appellant's] responsibilities to his creditors. However, we are not certain. Therefore, it is being submitted for your information and/or consideration in the above appeal."

The Board gave the parties an opportunity to respond to the submission of the Notice. The Area Director provided nothing further. Appellant responded by submitting a copy of his voluntary petition for bankruptcy, which listed the Anadarko Area Office as having a claim against him in regard to the lease at issue here. Although nothing which Appellant submitted proves that the Anadarko Area Office was actually sent information concerning the bankruptcy petition while it was pending, the court obviously knew of the claim because it sent the Notice of Discharge to the Area Office. Appellant states that BIA did not participate in the bankruptcy proceedings.

The court's Notice does not address the grounds on which the Area Director found that the lease at issue here was invalid. Furthermore, in acknowledging payment of the 1996 and 1997 rentals, the Area Director appears to have concluded that any claim which BIA had against Appellant, as of the date of his decision, had been paid. Therefore, it does not appear that the outcome of the bankruptcy case would affect the substance of a decision here.

However, the Board concludes that this case is moot. Because the lease expired by its own terms on December 31, 1998, it is no longer in effect. The Board's normal rule is that it does not review moot cases. See, e.g., Belenski v. Portland Area Director, 33 IBIA 148 (1999); Pourier v. Aberdeen Area Director, 30 IBIA 181 (1997). Although there are circumstances under which the Board will review a moot case, it finds that no valid reason for such review exists here. See, e.g., Warr v. Portland Area Director, 30 IBIA 174, recon. denied, 30 IBIA 217; Rush v. Acting Navajo Area Director, 25 IBIA 198, 199 n.1 (1994), and cases cited therein.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal from the Anadarko Area Director's October 21, 1997, decision is dismissed as moot.

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Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge