



INTERIOR BOARD OF INDIAN APPEALS

Robert E. Ramsey v. Acting Northwest Regional Director,
Bureau of Indian Affairs

35 IBIA 153 (08/22/2000)



United States Department of the Interior

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

ROBERT E. RAMSEY,
Appellant

v.

ACTING NORTHWEST REGIONAL
DIRECTOR, BUREAU OF INDIAN
AFFAIRS,

Appellee

: Order Docketing and Dismissing
: Appeal and Remanding Matter to
: Yakama Agency Superintendent

:
:

: Docket No. IBIA 00-105-A

:
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: August 22, 2000

On August 18, 2000, the Board of Indian Appeals received a notice of appeal from Robert E. Ramsey (Appellant), seeking review of a July 20, 2000, decision of the Acting Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), concerning Lease 5-1-6016-8909 for a portion of Yakama Allotment 1136.

In his July 20, 2000, decision, the Regional Director reviewed a December 27, 1999, letter signed by the Superintendent, Yakama Agency, BIA, which informed Appellant that his rights in the lease were terminated. The Regional Director vacated the Superintendent's decision and remanded the matter to him, upon concluding that the Superintendent had improperly characterized the matter as a lease renewal matter when, in fact, Appellant had exercised his option to renew the lease in 1996. The Regional Director found that, if lease cancellation was intended, the Superintendent's notice to Appellant was inadequate. He therefore directed the Superintendent, upon remand, "to determine whether specific lease provisions were violated, and if so, to reinstate lease cancellation procedures." Regional Director's July 20, 2000, Decision at 4.

On appeal to the Board, Appellant asks the Board to "review the merits and substance of the appeal and issue a ruling that [Lease 5-1-6016-8909] cannot be cancelled on the basis of the allegations contained in the Superintendent's [show cause] Notice of October 25, 1999."

Appellant clearly seeks a decision on the merits. However, because the Regional Director did not reach the merits of Appellant's appeal, neither would the Board, if it were to retain jurisdiction over this appeal. *E.g.*, Colby v. Acting Eastern Oklahoma Regional Director, 35 IBIA 139 (2000); Walter Torske & Sons v. Acting Billings Area Director, 30 IBIA 157, 161 (1997). The Board's review here would be limited to the question actually decided by the Regional Director)) *i.e.*, whether the Superintendent properly "terminated" Appellant's lease by declining to recognize the lease renewal or whether he was required to provide notice adequate

for lease cancellation purposes. Thus, the most Appellant can hope to gain here, should the Board disagree with the Regional Director, is a Board decision ordering the Regional Director to address the merits of Appellant's appeal.

The Regional Director correctly provided Appellant with appeal instructions concerning his right to appeal to the Board, and Appellant was clearly entitled to file an appeal with the Board. In the circumstances of this case, however, the Board's retention of this appeal can only result in delay. Therefore, the Board finds that this appeal should be dismissed so that the Superintendent may proceed promptly to consider whether lease cancellation proceedings should be initiated against Appellant. If Appellant is dissatisfied with the Superintendent's conclusion, he may appeal again.

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 is docketed and dismissed without prejudice. The matter is remanded to the Superintendent for further proceedings in accordance with the Regional Director's July 20, 2000, decision.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge