



INTERIOR BOARD OF INDIAN APPEALS

Estate of James Moves Camp

36 IBIA 296 (09/14/2001)



## United States Department of the Interior

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

ESTATE OF JAMES MOVES CAMP : Order Docketing and Dismissing Appeal  
:   
: Docket No. IBIA 01-167  
:   
: September 14, 2001

On September 12, 2001, the Board of Indian Appeals (Board) received a notice of appeal and motion for leave to file late appeal in the estate of James Moves Camp from Appellant Germaine Moves Camp. IP TC-0002-T-98. Administrative Law Judge Marcel S. Greenia denied rehearing in this estate by order dated June 1, 2001. The order clearly notified interested parties that any notice of appeal was to be filed with the Board within 60 days of the date the order was mailed. Interested parties were further informed that the order was mailed on June 1, 2001. Therefore, in order to be timely, any notice of appeal had to be filed by July 31, 2001. Appellant's notice of appeal was postmarked September 5, 2001.

In her motion, Appellant states that she believed her mother, Ellen Moves Camp, had appealed to the Board, but discovered that this was not correct on August 31, 2001. She asks that the Board accept her late appeal.

The Board's regulations in 43 C.F.R. § 4.320(a) provide that a notice of appeal from an order denying rehearing must be filed within 60 days from the date of the decision. Although Judge Greenia's order stated that the appeal was to be filed within 60 days from the date of mailing, the date of the decision and the date of mailing were the same. Section 4.320(a) clearly provides that "[a] notice of appeal not timely filed shall be dismissed for lack of jurisdiction." There is no exception that would allow the Board to accept this late-filed notice of appeal.

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 but dismissed because it was not timely filed.

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Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge