



INTERIOR BOARD OF INDIAN APPEALS

Howard Logan, Jr. v. Taholah Agency Superintendent, Bureau of Indian Affairs

48 IBIA 165 (12/15/2008)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

HOWARD LOGAN, JR.,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	
TAHOLAH AGENCY)	Docket No. IBIA 09-25-A
SUPERINTENDENT, BUREAU)	
OF INDIAN AFFAIRS,)	
Appellee.)	December 15, 2008

On November 24, 2008, the Board of Indian Appeals (Board) received a notice of appeal from Howard Logan, Jr. (Appellant), pro se, seeking review of a June 20, 2008, decision of the Acting Superintendent, Taholah Agency, Bureau of Indian Affairs (Superintendent; BIA). The Superintendent denied a claim for damages that Appellant had submitted regarding a timber harvest of western red cedar on his solely-owned allotment, identified as the Allen McBride Allotment, No. 2000, on the Quinault Reservation. We docket this appeal but dismiss it as premature because the Superintendent's decision is not appealable to the Board: Appellant must first exhaust his appeal rights before the BIA Northwest Regional Director (Regional Director).

Appellant's Notice of Appeal (NOA) to the Board identifies the Regional Director as the "appellee," but also is captioned as "Landowner's Appeal to Superintendent Taholah Agency Administrative Decision." The NOA does not refer to any decision by the Regional Director, but attached to it is a signature page of a letter from the Superintendent. Upon receipt of the NOA, the Board obtained from the Superintendent's office a complete copy of the Superintendent's decision, and the Superintendent's office also provided the Board with a copy of a separate notice of appeal that Appellant apparently has filed to appeal the Superintendent's decision to the Regional Director.¹

¹ The Superintendent's office also provided the Board with a copy of a September 16, 2008, letter from the Superintendent to Appellant granting him an extension of time, until November 22, 2008, to file pleadings in his appeal to the Regional Director. The Regional Director's office has confirmed for the Board that the Regional Director has not yet issued a decision for Appellant's appeal to him from the Superintendent's decision.

Under the general provisions for appealing an administrative action by a BIA official, a decision made by a BIA official subordinate to a Regional Director must first be appealed to the appropriate Regional Director before it can be appealed to the Board. *Northern Cheyenne Livestock Ass'n v. Acting Superintendent, Northern Cheyenne Agency*, 43 IBIA 24 (2006); *see* 25 C.F.R. § 2.4(a) & (e); 43 C.F.R. § 4.331(a). Therefore, Appellant's appeal to the Board from the Superintendent's decision is premature and the Board lacks jurisdiction to consider it. After the Regional Director issues a decision, and if that decision adversely affects Appellant, he may then appeal the Regional Director's decision to the Board. *See* 25 C.F.R. § 2.4(e); 43 C.F.R. § 4.331(a); *Hardy v. Acting Midwest Regional Director*, 42 IBIA 255, 256 (2006).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board docketed this appeal, but dismisses it as premature.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge