



INTERIOR BOARD OF INDIAN APPEALS

Philip Lampert v. Assistant Secretary - Indian Affairs; Acting Director,
Bureau of Indian Affairs; Northwest Regional Director, Bureau of Indian Affairs; and
Acting Coeur D'Alene Agency Superintendent, Bureau of Indian Affairs

48 IBIA 279 (02/13/2009)

Related Board case:
48 IBIA 276



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

PHILIP LAMPERT,)	Order Dismissing Appeal
Appellant,)	
)	
v.)	
)	
ASSISTANT SECRETARY - INDIAN)	
AFFAIRS; ACTING DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS;)	Docket No. IBIA 09-5-A
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS; AND ACTING)	
COEUR D'ALENE AGENCY)	
SUPERINTENDENT, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellees.)	February 13, 2009

On September 12, 2008, Philip Lampert (Appellant) appealed to the Board of Indian Appeals (Board), pursuant to 25 C.F.R. § 2.8 (appeal from inaction of official), seeking review of the alleged failure of the Assistant Secretary - Indian Affairs, the Acting Director, Bureau of Indian Affairs (Director; BIA), the Northwest Regional Director, BIA (Regional Director), and the Acting Superintendent of the Coeur d'Alene Agency, BIA (Superintendent), to respond to an August 6, 2008, demand for action or decision made by Appellant under section 2.8. Appellant demanded that BIA pay him \$19,622.30 as his share of damages for a right-of-way acquired by the Idaho Department of Transportation over 25.467 acres of Coeur d'Alene Allotment No. 410, in which Appellant holds a leasehold interest.

Upon receipt of Appellant's appeal, the Board summarily concluded that it lacked jurisdiction to even consider Appellant's claims against the Assistant Secretary and the Superintendent. *See* Order, Sept. 25, 2008. Because it is clear that the initial responsibility within BIA for deciding the merits of Appellant's claim was with the Superintendent, and not the Regional Director, it is also clear that Appellant's demands for action by the Regional Director and the Director — and necessarily its appeal against them for inaction — was premature. Therefore, we dismiss this appeal in its entirety.

During the course of this appeal, in response to requests from the Board, the Regional Director filed two status reports, the second of which reported that on January 7, 2009, the Superintendent issued a decision on the merits of Appellant's request. That decision advised Appellant of his right to appeal the decision to the Regional Director.

For the reasons discussed in *Drechsel Brothers, Inc. v. Assistant Secretary - Indian Affairs*, 48 IBIA 276 (2009), a factually similar case that the Board is also deciding today, we dismiss this 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 dismissed.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge