



INTERIOR BOARD OF INDIAN APPEALS

Brenda Schmidt v. Northwest Regional Director, Bureau of Indian Affairs

51 IBIA 248 (04/29/2010)



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

BRENDA SCHMIDT,)	Order Docketing and
Appellant,)	Dismissing Appeal
)	
v.)	
)	Docket No. IBIA 10-072
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	April 29, 2010

Brenda Schmidt (Appellant) appealed to the Board of Indian Appeals (Board) from a January 21, 2010, decision of the Northwest Regional Director, Bureau of Indian Affairs (Regional Director; BIA), which upheld a decision by the BIA Colville Agency Acting Superintendent (Superintendent) to cancel Appellant’s homesite/pasture lease of Colville Tribal Tract No 101-T3506 (Lease No. 00-115,¹ BIA Lease No. 1012032700), for non-payment of rent. Because Appellant had not served her notice of appeal on the Assistant Secretary - Indian Affairs, as required by 43 C.F.R. § 4.332(a), and because it appeared that the appeal was untimely, the Board ordered Appellant, on or before March 26, 2010, to comply with that service requirement and also to show why the Board should not dismiss her appeal as untimely.² The Board advised Appellant that if she failed to respond to the Board’s order, her appeal might be dismissed without further notice.

The Board has received no response from Appellant.

¹ The Regional Director’s decision identifies the lease as Lease No. “00-155,” but that appears to be a typographical error. The copy of the lease included as an exhibit to the decision, and enclosed with the notice of appeal, identifies it as Lease No. 00-115.

² Appellant’s notice of appeal did not allege that the Regional Director committed error, but instead appeared to be requesting another chance to keep her lease. Therefore, the Board also ordered Appellant to show, even if the appeal were found to be timely, why the Regional Director’s decision should not be summarily affirmed.

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 but dismisses this appeal for failure to prosecute.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Sara B. Greenberg
Administrative Judge*

*Interior Board of Land Appeals, sitting by designation.