



INTERIOR BOARD OF INDIAN APPEALS

Spokane Tribe of Indians v. Northwest Regional Director, Bureau of Indian Affairs

53 IBIA 1 (01/04/2011)



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

SPOKANE TRIBE OF INDIANS,)	Order Dismissing Appeal
Appellant,)	
)	
v.)	
)	
NORTHWEST REGIONAL)	Docket No. IBIA 11-022
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	January 4, 2011

On October 5, 2010, the Spokane Tribe of Indians (Tribe), through its Chairman, filed an appeal with the Board of Indian Appeals (Board), seeking review of a February 12, 2010, decision (Decision) by the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA). In the Decision, the Regional Director declined the Tribe’s proposal under the Indian Self-Determination Education and Assistance Act (ISDA), Pub. L. No. 93-638, 25 U.S.C. § 450 *et seq.*, to contract the administrative officer’s position at the Spokane Agency, BIA.¹ A direct appeal to the Board from an ISDA declination decision must be filed within 30 days after a tribe receives the decision, and because the Tribe has not shown that this appeal is timely, we dismiss it for lack of jurisdiction.

When a tribe seeks administrative review of a BIA decision refusing to approve an ISDA contract proposal from a tribe, a tribe may either appeal the decision directly to the Board or it may first request an informal conference with BIA to attempt to resolve the dispute without a hearing (after which an appeal from the original decision may still be taken to the Board). *See* 25 C.F.R. §§ 900.153, 900.157, 900.158.² Regardless of which type of review is sought, the ISDA regulations require that the tribe file its appeal or request

¹ The Regional Director concluded that the functions, services, and activities performed by the administrative officer at the Spokane Agency are inherently federal functions and therefore are beyond the scope of contractable functions covered under section 102(a)(1) of ISDA, 25 U.S.C. § 450f(a)(1). *See* 25 C.F.R. § 900.22(e).

² A tribe may also proceed directly to court. *See id.* § 900.153.

for an informal conference within 30 days from the date that it receives the decision. *Id.* §§ 900.154, 900.158. Untimely appeals will be dismissed. *See, e.g., Pascua Yaqui Tribe v. Acting Tucson Area Director, Indian Health Service*, 45 IBIA 55, 56-57 (2007); *Quileute Indian Tribe v. Portland Area Director*, 34 IBIA 98, 99 (1999).

The Regional Director's Decision informed the Tribe that an appeal to the Board must be filed within 30 days of the Tribe's receipt of the Decision. The Tribe filed its appeal with the Board on October 5, 2010, as evidenced by the postmark on the envelope. *See* 25 C.F.R. § 900.158(b) (effective date of filing notice of appeal is date of mailing or date of personal delivery). Because it appeared that the Tribe had filed its notice of appeal more than 30 days after receiving the Decision, the Board ordered the Tribe to show cause, on or before November 15, 2010, why the appeal should not be dismissed as untimely.³

The Board has received no response from the Tribe.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1 and 25 C.F.R. § 900.160, the Board dismisses the Tribe's appeal as untimely.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

³ The Tribe's appeal did not indicate or otherwise suggest that the Tribe had first pursued an informal conference under § 900.154 and was filing the appeal under § 900.157 within 30 days after the receipt of a recommended decision following an informal conference.