



INTERIOR BOARD OF INDIAN APPEALS

Estate of Bertha Mae Tabbytite

54 IBIA 86 (10/04/2011)

Reconsideration Denied:

54 IBIA 229

The U.S. Postal Service's Track-and-Confirm service on its web site indicates that counsel for Tabbytite received a copy of the Board's order on May 16, 2011.

In a subsequent interim order in the consolidated appeals, the Board noted that it had received no response from Tabbytite, again ordered her to complete service, and again advised her that if she failed to respond, her appeal might be summarily dismissed.³ The Board gave Tabbytite until August 12, 2011 to comply.

The U.S. Postal Service's Track-and-Confirm service on its web site indicates that Tabbytite and her counsel received a copy of the Board's order on August 1, 2011.

The Board has received no response from Tabbytite or her counsel to the orders for her to complete service.⁴

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 dismisses this appeal for failure to prosecute.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

³ See Notice of Docketing, Second Order for Tabbytite to Complete Service, Order Setting Briefing Schedule, and Order Concerning Restriction on Maudean Tabbytite's IIM Account, July 28, 2011 (July 28 Order); see also Order Granting Vitale's Motion for Extension for Opening Brief at 1-2 n.1, Aug. 25, 2011 (August 25 Order) (noting Tabbytite's noncompliance with order to serve and that her appeal appears suitable for summary dismissal).

⁴ On September 27, 2011, the Board received from Tabbytite, through counsel, a motion for an extension of time in which to file her opening brief. The motion ignores the Board's May 12 and July 28 Orders and the Board's observation in its August 25 Order that her appeal appeared to be suitable for summary dismissal. Our dismissal of this appeal renders moot Tabbytite's motion for an extension for filing an opening brief. Our dismissal does not affect her right to participate as an interested party in Vitale's appeal, e.g., by filing an answer to Vitale's opening brief.