



INTERIOR BOARD OF INDIAN APPEALS

Lawrence Swalley v. Acting Great Plains Regional Director, Bureau of Indian Affairs

54 IBIA 108 (10/14/2011)



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

LAWRENCE SWALLEY,)	Order Docketing and Dismissing Appeal
Appellant,)	
)	
v.)	
)	
ACTING GREAT PLAINS REGIONAL)	Docket No. IBIA 11-143
DIRECTOR, BUREAU OF)	
INDIAN AFFAIRS,)	
Appellee.)	October 14, 2011

Lawrence Swalley (Appellant) appealed to the Board of Indian Appeals (Board) from a June 10, 2011, decision (Decision) of the Acting Great Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA). The Regional Director affirmed a February 3, 2011, decision of BIA’s Acting Pine Ridge Agency Superintendent (Superintendent), which cancelled, for nonpayment of rent, Lease No. 3-U1584-10-14 (Lease), between Oglala Sioux Tribe (Tribe) as lessor, and Appellant as lessee.¹

On July 27, 2011, the Board ordered Appellant to complete service of his appeal on the Regional Director and two additional interested parties who were identified in the Decision, as required by 43 C.F.R. §§ 4.310(b) and 4.332(a), and as advised in the Decision, and to notify the Board that he had done so. The Board also ordered Appellant to clarify the scope and intent of his appeal, specifically whether Appellant wished to have that portion of the Decision cancelling the Lease remain without effect during the pendency of the appeal, or whether Appellant intended to limit his appeal to that portion of the

¹ The Lease was for 20 acres of land identified as Pine Ridge Allotments T1306, consisting of the NE¹/₄SE¹/₄NE¹/₄ of Section 31, T.39N., R.40W., and T11584, consisting of the NW¹/₄SW¹/₄NW¹/₄ of Section 32, T.39N., R.40W., Sixth Principal Meridian, Bennett County, South Dakota.

Decision that addressed the Superintendent's finding that cancellation of the Lease would not relieve Appellant of liability that had accrued under the Lease.²

The Board set a deadline of August 22, 2011, for Appellant to comply with the Board's order, and advised Appellant that if he failed to comply or to respond to the Board's order, his appeal might be dismissed without further notice.

The U.S. Postal Service's Track-and-Confirm service on its website indicates that Appellant received the Board's order on August 5, 2011.

The Board has received no response from Appellant.

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
Debora G. Luther
Administrative Judge

² The Board explained that, under 25 C.F.R. § 162.254, a BIA lease cancellation decision remains without effect during an appeal (unless the Board provides otherwise) but an appellant must continue to pay rent during the pendency of the appeal. Thus, the Board advised Appellant that if he intended to challenge the lease cancellation portion of the Decision, Appellant must be prepared to pay the full amount of rent due for 2011 and to continue to pay rent while the appeal remained pending.