



INTERIOR BOARD OF INDIAN APPEALS

Hal Taines v. Muskogee Area Director, Bureau of Indian Affairs

21 IBIA 270 (03/27/1992)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

HAL TAINES,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 92-134-A
MUSKOGEE AREA, DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	March 27, 1992

By letter dated October 21, 1991, appellant Hal Taines was informed that the Muskogee Area Director, Bureau of Indian Affairs (Area Director; BIA), had assessed an additional royalty under appellant's Osage oil and gas lease. The Area Director issued approximately 545 such notices to Osage oil and gas lessees. Each letter informed the lessee of his/her right to appeal to this Board. Appellant did not file a timely notice of appeal.

On March 23, 1992, the Board received a letter from appellant, stating:

I recently received a letter from the Bureau of Indian Affairs claiming that we owe additional royalties to the Indian Agency. They also advised us that due to the fact that we did not file an appeal, we are now subject to interest and penalties, and if we do not pay by the 31st of March, further penalties, such as fines and cancellation of our leases, is possible. It was impossible for us to appeal when the letter that was sent to us lost its way somewhere between the doorman of our building and our office. For some reason the letter was accepted by a doorman in our building but never reached our office. I realize that this is a poor and lame excuse, but unfortunately, it is the only one I have and it is true. I would seriously appreciate it if the bureau would consider us to enter an appeal.

The return receipt card for the October 21, 1991, decision shows that it was received at appellant's address on October 24, 1991, and signed for by a "P. Lyman." Notice of a BIA decision is normally effective when it is received at the record address of the party to whom it is addressed, regardless of whether the addressee actually signs for it. *Cf. Burchard v. Acting Billings Area Director*, 19 IBIA 254, 258-59 (1991). It was appellant's responsibility to authorize, or withhold authority from, building employees concerning receipt of appellant's certified mail.

Appellant's recent letter to the Board cannot be considered a timely notice of appeal from the October 21, 1991, decision.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed and dismissed as not being timely filed.

//original signed

Anita Vogt
Administrative Judge

//original signed

Kathryn A. Lynn
Chief Administrative Judge