



INTERIOR BOARD OF INDIAN APPEALS

Thomas A. (Tom) Dailey v. Acting Billings Area Director, Bureau of Indian Affairs

26 IBIA 17 (05/24/1994)

Related Board cases:

19 IBIA 271A

22 IBIA 205

34 IBIA 128



United States Department of the Interior

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

THOMAS A. DAILEY,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 94-103-A
ACTING BILLINGS AREA, DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	May 27, 1994

On April 19, 1994, the Board of Indian Appeals received a notice of appeal and statement of reasons from Thomas A. Dailey, through counsel, Martin J. Elison, Esq., Hardin, Montana. Appellant sought review of a March 18, 1994, decision of the Acting Billings Area Director, Bureau of Indian Affairs, assessing charges for delinquent lease payments and trespass damages with respect to property in which he owns an interest. 1/

Appellant's notice of appeal did not certify that he had served copies on his four co-owners, although the Acting Area Director's decision informed him that he was required to serve copies on all interested parties known to him and to certify to the Board that he had done so. The Acting Area Director's decision listed the names and addresses of appellant's co-owners.

On April 20, 1994, the Board issued a pre-docketing notice and order to serve interested parties. The order stated:

Appellant shall immediately serve copies of his notice of appeal, with all attachments, on the co-owners and shall certify to the Board that he has done so. Appellant's certificate of service, showing names and addresses of the parties served, must be received by the Board on or before May 6, 1994. Appellant is advised that, unless his certificate of service is received by this date, his appeal is subject to dismissal for failure to prosecute. [Emphasis in original.]

No certificate of service has been received from appellant. 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 under the above docket number but is dismissed for lack of prosecution. The Acting Area Director's March 18, 1994, decision is final for the Department of the Interior.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge

1/ See Dailey v. Acting Billings Area Director, 19 IBIA 271 (1991), and Dailey v. Billings Area Director, 22 IBIA 205 (1992), for earlier proceedings in this matter.