



INTERIOR BOARD OF INDIAN APPEALS

Jack D. Blanchard v. Sacramento Area Director, Bureau of Indian Affairs

27 IBIA 134 (01/23/1995)



United States Department of the Interior

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

JACK D. BLANCHARD,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 95-66-A
SACRAMENTO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	January 23, 1995

On January 20, 1995, the Board of Indian Appeals received a copy of a notice of appeal signed by Jack D. Blanchard (appellant). The copy was furnished to the Board by the Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA). It is dated January 5, 1995; is addressed to the Assistant Secretary - Indian Affairs; and indicates that appellant is attempting to appeal the Area Director's December 5, 1994, decision disapproving his application for a U.S. direct loan.

The Area Director also furnished a copy of the receipt for certified mail for appellant's copy of the Area Director's decision. It shows that appellant received the decision on December 7, 1994.

The appeal is docketed under the above case name and number, which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed.

The Area Director's decision stated:

This disapproval decision may be appealed to the Interior Board of Indian Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340. Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. * * * You must send copies of your notice of appeal to (1) the Assistant Secretary - Indian Affairs, * * * (2) each interested party known to you, and (3) this office. Your notice of appeal sent to the Board of Indian Appeals must certify that you have sent copies to these parties. * * * If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for a notice of appeal.

Appellant has failed to file a timely notice of appeal. The Area Director's decision clearly informed him that his notice of appeal was to be filed with the Board and provided the Board's address. Appellant did

not follow the Area Director's instructions but, instead, filed his notice of appeal with the Assistant Secretary - Indian Affairs. The Board has consistently held that a notice of appeal is not timely when the appellant has been given the correct appeal information but files his/her notice of appeal with an official other than the Board, resulting in receipt of the notice of appeal by the Board outside the time period specified in the regulations. E.g., Kozak v. Acting Aberdeen Area Director, 24 IBIA 207 (1993); Butler v. Acting Portland Area Director, 22 IBIA 186 (1992).

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 dismissed as not being timely filed.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge