



INTERIOR BOARD OF INDIAN APPEALS

Dean Wallace v. Aberdeen Area Director, Bureau of Indian Affairs

31 IBIA 219 (10/22/1997)



United States Department of the Interior

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

DEAN WALLACE,
Appellant
v.
ABERDEEN AREA DIRECTOR,
BUREAU OF INDIAN AFFAIRS,
Appellee

: Order Dismissing Appeal
:
:
: Docket No. IBIA 95-1-A
:
:
: October 22, 1997

Appellant Dean Wallace sought review of a December 21, 1993, decision issued by the Aberdeen Area Director, Bureau of Indian Affairs (Area Director), concerning bonding requirements for five leases on the Devils Lake Sioux Reservation. On October 18, 1994, the Board of Indian Appeals (Board) referred this matter to the Hearings Division of the Office of Hearings and Appeals for assignment to an Administrative Law Judge (ALJ; Judge). The ALJ was given discretion to attempt to resolve this matter either through an evidentiary hearing or through the use of an appropriate method of alternate dispute resolution.

The matter was originally assigned to Judge Harvey C. Sweitzer, but was later reassigned to Judge Vernon J. Rausch. On August 29, 1997, Judge Rausch recommended that the matter be dismissed. The Judge's recommended order states:

On October 24, 1996, and again on December 10, 1996, the appellant was instructed to outline issues remaining to be resolved in this case on or before December 31, 1996, and [was] advised that his failure to do so would result in a recommendation to the [Board] that the [Area Director's] Motion to Dismiss be granted.

Judge Rausch stated that Appellant had not advised him that any issues remained to be resolved. The Judge's recommended order was sent to Appellant's counsel by return receipt mail and to Appellant by regular mail. The return receipt card for the copy of the recommended order sent to counsel shows that it was received on September 3, 1997.

The Judge's memorandum transmitting his recommended order to the Board notified the parties that, pursuant to 43 C.F.R. § 4.339, "[w]ithin 30 days after receipt of the recommended decision of the administrative law judge, any party may file exceptions to or other comments on the decision with the Board."

No exceptions or other comments have been filed.

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 accepts Judge Rausch's recommendation that this appeal be dismissed. This dismissal is with prejudice.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge