



INTERIOR BOARD OF INDIAN APPEALS

Darlene Renville-Pipeboy v. Acting Great Plains Regional Director,
Bureau of Indian Affairs

39 IBIA 188 (11/05/2003)



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

DARLENE RENVILLE-PIPEBOY,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	
ACTING GREAT PLAINS REGIONAL	:	Docket No. IBIA 04-5-A
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	November 5, 2003

Appellant Darlene Renville-Pipeboy sought review of a December 20, 2002, decision issued by the Acting Great Plains Regional Director, Bureau of Indian Affairs (Regional Director). The decision involved the discontinuation of Appellant's general assistance. For the reasons discussed below, the Board of Indian Appeals (Board) docketed this case but dismisses it as untimely.

The Board first learned that Appellant had attempted to appeal from the Regional Director's decision on October 1, 2003, when it received a copy of the notice of appeal as part of a package of materials filed with it by Appellant. Those materials showed that Appellant had sent a notice of appeal, dated January 24, 2003, to the Assistant Secretary - Indian Affairs. Nothing in the materials, however, showed that Appellant had filed a notice of appeal with the Board.

By order dated October 3, 2003, the Board gave Appellant an opportunity to show that her notice of appeal was timely filed. On November 3, 2003, it received a response from counsel for Appellant. The response states that the notice of appeal was filed with the Assistant Secretary in accordance with the instructions given on page 2 of the December 20, 2002, decision.

The Regional Director's decision stated on page 2 that copies of the notice of appeal were to be filed with the Assistant Secretary, each interested party known to Appellant, and the Regional Director. However, page 1 of the decision properly informed Appellant that any notice of appeal was to be filed with the Board, gave the Board's correct mailing address, and stated the time period for filing an appeal.

The filing of a timely notice of appeal with the Board is jurisdictional. See 43 C.F.R. § 4.332(a). The Board has consistently held that a notice of appeal is not timely if the appellant is given correct appeal information, but files her notice of appeal with an office or official other than the Board and the notice is received by the Board outside the time for filing a notice of appeal. See, e.g., Jackson County, Kansas v. Acting Southern Plains Regional Director, 39 IBIA 78, 79 (2003), and cases cited there. Appellant here was given correct appeal information, but filed her notice of appeal with the Assistant Secretary, rather than with the Board. Under these circumstances, the notice of appeal is not timely.

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 this appeal from the Regional Director's December 20, 2002, decision, but dismisses it as untimely.

//original signed

Kathryn A. Lynn
Administrative Judge

//original signed

Kathleen R. Supernaw
Acting Administrative Judge