



INTERIOR BOARD OF INDIAN APPEALS

Lawrence E. O'Donnell v. Northwest Regional Director, Bureau of Indian Affairs

52 IBIA 17 (07/21/2010)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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LAWRENCE E. O'DONNELL,)	Order Affirming Decision
Appellant,)	
)	
v.)	Docket No. IBIA 10-100
)	
NORTHWEST REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	July 21, 2010

Lawrence E. O'Donnell (Appellant) sought review from the Board of Indian Appeals (Board) of an April 15, 2010, decision of the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA), in which the Regional Director dismissed as untimely Appellant's appeal from a decision of the Superintendent, Puget Sound Agency, BIA, to adjust the rent for Appellant's Lease No. 123-2085600025, covering Lot 38, Block 1, of the Hermosa Point Summer Homesites on the Tulalip Reservation.

We summarily affirm the Regional Director's decision because Appellant concedes that his appeal to the Regional Director "was not [submitted] within the 30 days specified [for appeals] in the Puget Sound Agency notice." Letter from Appellant to the Board, July 12, 2010. Appellant goes on to state that "[i]f that 30 day period is the determining factor on the issue of timeliness, the record is clear and I do not wish to waste anyone's time on pursuing the matter." *Id.*

The Regional Director correctly determined that the time for appeal commenced with Appellant's receipt of the Agency's decision on February 3, 2010. 25 C.F.R. § 2.9(a); *Alskog v. Northwest Regional Director*, 51 IBIA 164, 165 (2010). Therefore, Appellant had until March 5, 2010, to file his appeal from the Superintendent's decision, and he delayed instead until March 30, 2010. In addition, the Superintendent provided correct appeal instructions with her letter, including notice that the decision would be final if a timely appeal were not filed and notice that no extensions of time would be available for filing a notice of appeal.

Inasmuch as Appellant concedes that his appeal to the Regional Director was filed late, and we find that the Superintendent gave accurate appeal instructions in her decision and that this appeal is limited to the issue of whether Appellant timely appealed to the Regional Director, we affirm the Regional Director's decision to dismiss Appellant's appeal as untimely.

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 summarily affirms the Regional Director's April 15, 2010, decision.¹

I concur:

// original signed
Debora G. Luther
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge

¹ Although he concedes the untimeliness of his appeal to the Regional Director, Appellant nevertheless presses for "a review and reconsideration of the rental adjustment rates." Letter from Appellant to the Board, July 12, 2010. The Board is jurisdictionally constrained by the absence of a decision on the merits by the Regional Director from undertaking any review of the adjustment in Appellant's rent. We express no opinion on BIA's ability to consider, or the appropriateness of BIA's consideration of, Appellant's suggestion.