



INTERIOR BOARD OF INDIAN APPEALS

Estate of Elvus Dewey Howard, Jr.

53 IBIA 133 (04/15/2011)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
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ARLINGTON, VA 22203

ESTATE OF ELVUS DEWEY)
HOWARD, JR.)
)
)
) Docket No. IBIA 11-043
)
)
) April 15, 2011

Tina M. LaBois (Appellant) appealed to the Board of Indian Appeals (Board) from an Order Reopening and Modifying Decision (Reopening Order) in the Indian trust estate of Elvus Dewey Howard, Jr. (Decedent), deceased Coeur D'Alene Indian, Probate No. P000038068IP.¹ The Reopening Order granted a request from the Bureau of Indian Affairs (BIA) to reopen a May 9, 2008, decision in Decedent's estate, which had determined that Decedent's surviving spouse, Sandra Huff Howard, subsequently deceased, was his sole heir. The Reopening Order added as heirs three previously undisclosed children of Decedent from his first marriage, reducing Sandra's share to one-half of the estate and dividing the remainder among the three children. Appellant is Sandra's daughter, and in her notice of appeal asked that Sandra's inherited interest in Decedent's allotment be returned to Decedent's estate and distributed to his three children.

On receipt of the appeal, the Board ordered Appellant to serve copies of her notice of appeal on the ALJ and other interested parties, as required by 43 C.F.R. §§ 4.310(b) and 4.323. The Board's order required Appellant to inform the Board by March 7, 2011, that she had served the necessary parties. The order further informed Appellant that if she failed to respond, her appeal might be summarily dismissed without further notice.² Appellant

¹ The Reopening Order was entered on November 19, 2010, by Administrative Law Judge (ALJ) Thomas F. Gordon.

² The order also requested that Appellant (1) inform the Board whether she is the administrator of Sandra's estate or is otherwise authorized to represent Sandra's interests in these proceedings; (2) provide the name and address of the administrator of Sandra's estate, if it is not Appellant; and (3) provide a copy of the probate order or other determination of the beneficiaries of Sandra's estate.

received the Board's order on February 7, 2011, as shown by the U.S. Postal Service's Track-and-Confirm service on its web site.

The Board has received no response from Appellant.

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 but dismisses this appeal for failure to prosecute.³

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Debora G. Luther
Administrative Judge

³ Our decision does not preclude Sandra's heir(s) or an authorized representative of her estate from transferring Sandra's interest in the allotment (or their interest inherited from Sandra) to Decedent's children, although any interest that is in fee would remain in fee unless BIA, in the exercise of its discretion, agreed to accept the interest back into trust. *See generally* 25 C.F.R. Part 151 (Land Acquisitions).