



INTERIOR BOARD OF INDIAN APPEALS

Jennifer M. Reeder v. Southern Plains Regional Director, Bureau of Indian Affairs

57 IBIA 223 (07/22/2013)

Related Board cases:

55 IBIA 201

57 IBIA 184

58 IBIA 40



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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JENNIFER M. REEDER,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	
SOUTHERN PLAINS REGIONAL)	Docket No. IBIA 13-122
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	July 22, 2013

On July 15, 2013, the Board of Indian Appeals (Board) received an appeal from Jennifer M. Reeder (Appellant) seeking review of alleged inaction by the Southern Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA). *See* 25 C.F.R. § 2.8 (appeal from inaction of official).¹ Appellant contends that the Regional Director failed to respond to a June 19, 2013, appeal that she filed with the Regional Director regarding a May 2, 2013, letter from BIA's Anadarko Agency Superintendent (Superintendent).² We dismiss this appeal as premature because the Regional Director is not overdue in issuing a decision on Appellant's appeal, and because § 2.8 does not allow an appellant to file a notice of appeal and simultaneously demand a response and action on that appeal within the time periods prescribed in § 2.8.

In her June 19, 2013, appeal to the Regional Director, Appellant requested a written response from the Regional Director within 10 days. But under BIA's appeal regulations, after receiving an appellant's statement of reasons, interested parties have 30 days in which to respond. *See* 25 C.F.R. § 2.11(c). Thus, assuming that Appellant's letter of appeal to

¹ Appellant has another appeal pending before the Board, Docket No. IBIA 13-120, which is not affected by our dismissal of the present appeal.

² After receiving notice that the Caddo Nation of Oklahoma intended to hold an election in July 2013, Appellant requested that the Superintendent identify the current office holder and term expiration date of each Tribal Council position. In response to Appellant's request, the May 2, 2013, letter discusses BIA's policy of noninterference in internal tribal matters, such as tribal elections.

the Regional Director also constituted her statement of reasons,³ and assuming that interested parties were properly served and received the appeal shortly thereafter, the deadline for filing responses would be sometime in late July. The Regional Director's decision on the appeal is due 60 days after the time for filing pleadings (including any extensions) has expired. *Id.* § 2.19(a). Thus, even under the strictest timetable, the deadline by which the Regional Director is required to decide Appellant's appeal would appear to be sometime in late September-early October. Accordingly, Appellant's appeal to the Board is premature. See *Quinault Indian Nation v. Northwest Regional Director*, 56 IBIA 3, 3-4 (2012); *Roubideaux v. Rocky Mountain Regional Director*, 53 IBIA 83, 83-84 (2011).

In addition, filing a notice of appeal with a regional director and simultaneously demanding action under § 2.8 on that same appeal is not even consistent with the procedural requirements of § 2.8. Section 2.8 provides specific procedures that would-be appellants must follow before a BIA official's inaction is appealable. If a party believes that it has been adversely affected by a BIA official's failure to act on a request from the party for action, the party must "[r]equest in writing that the official take the action *originally asked of* him/her," 25 C.F.R. § 2.8(a)(1) (emphasis added), and must otherwise comply with the procedural requirements of § 2.8, *see id.* § 2.8(a)(2)-(3). In the present case, Appellant's notice of appeal to the Regional Director, requesting review of and relief from the Superintendent's decision, constitutes the action "originally asked of" the Regional Director. If the Regional Director fails to decide the appeal within the time period prescribed in § 2.19(a), Appellant may *then* submit a § 2.8 demand to prompt action on the appeal. But it is premature to submit a § 2.8 demand for an appeal with the notice of appeal itself. Thus, noncompliance with the procedural requirements of § 2.8 is another ground upon which dismissal is appropriate. See *Felter v. Western Regional Director*, 36 IBIA 98, 99 (2001).

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.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

//original signed
Debora G. Luther
Administrative Judge

³ An appellant may file a statement of reasons with the notice of appeal, or within 30 days after filing the appeal. 25 C.F.R. § 2.10.