INTERIOR BOARD OF INDIAN APPEALS

Sophie Jane Shepherd v. Hearing Officer, Alaska Region, Bureau of Indian Affairs

59 IBIA 165 (10/09/2014)

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

SOPHIE JANE SHEPHERD, Appellant,	)	Order Docketing and Dismissing Appeal as Premature and Referring Appeal to the Alaska Regional Director
v.	)	
HEARING OFFICER, ALASKA REGION, BUREAU OF INDIAN AFFAIRS, Appellee.	)	Docket No. IBIA 15-003
	)	October 9, 2014

On September 25, 2014, the Board of Indian Appeals (Board) received a notice of appeal from Sophie Jane Shepherd (Appellant). Appellant seeks review of an August 22, 2014, decision (Decision) of the Hearing Officer, Alaska Region, Bureau of Indian Affairs (BIA) to supervise Appellant's Individual Indian Money (IIM) account for a period of one year. We docket and dismiss this appeal because the Board lacks jurisdiction over an appeal from the decision of a BIA official who is subordinate to a BIA regional director. An appeal from such an official must be brought to the appropriate regional director, and therefore we refer the appeal to the Alaska Regional Director.

The decision of the Hearing Officer to supervise Appellant's IIM account was made, after a hearing, pursuant to the provisions of 25 C.F.R. Part 115 governing trust funds for individuals. Section 115.107 of 25 C.F.R. provides that appeals from action taken by a BIA official under Part 115 may be taken pursuant to BIA's administrative appeal regulations found in 25 C.F.R. Part 2.

In the present case, the Decision referred only to the appeal provisions found in 25 C.F.R. §§ 115.107 and 115.619, and in 25 C.F.R. "Part 2," but did not identify to whom an appeal could properly be filed under Part 2.[1] Under 25 C.F.R. § 2.4(a), BIA regional directors are vested with authority to decide appeals from "a decision by a person

[1] Section 2.7(c) of 25 C.F.R. requires a BIA official who issues a decision to include a statement of appeal rights, which must include identifying the official to whom the decision may be appealed and indicating the 30-day appeal period. Failure to give proper notice pursuant to 25 C.F.R. § 2.7(c) tolls the deadline for filing an appeal. *Id.* § 2.7(b).

under the authority of that [regional director.]"[2] The Board's jurisdiction is limited, as relevant here, to deciding appeals from decisions made by regional directors. *Id.* § 2.4(e); *see also* 43 C.F.R. § 4.331 (interested party may appeal to the Board except to the extent a decision is subject to appeal to a higher official within BIA); *State of Wyoming v. Wind River Agency Superintendent*, 57 IBIA 310, 311 n.2 (2013) (same); *Wilson Dahozy, Sr. v. Natural Resource Manager*, 38 IBIA 203, 203 (2002) (same). Because the Hearing Officer is a subordinate official under the Alaska Regional Director, the Board lacks authority to consider this appeal from the Decision.

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 dockets but dismisses this appeal for lack of jurisdiction, and refers it to the Alaska Regional Director for consideration.[3]

I concur:

// original signed	//original signed
Steven K. Linscheid	Sara E. Costello
Chief Administrative Judge	Acting Administrative Judge

[2] The term "area director" in the regulations refers to the officials who are now designated as BIA regional directors.

[3] Because we lack jurisdiction, we leave it to the Regional Director to consider Appellant's request for an extension of time in which to file her statement of reasons. We note that Appellant filed her appeal pro se, but is now represented by counsel.