



INTERIOR BOARD OF INDIAN APPEALS

Ted Lone Fight III v. Acting Great Plains Regional Director, Bureau of Indian Affairs

60 IBIA 79 (03/04/2015)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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ARLINGTON, VA 22203

TED LONE FIGHT III,)	Order Docketing and Dismissing
Appellant,)	Appeal
)	
v.)	
)	Docket No. IBIA 15-052
ACTING GREAT PLAINS REGIONAL)	
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	March 4, 2015

Ted Lone Fight III (Appellant) appealed to the Board of Indian Appeals (Board) from an October 9, 2014, decision (Decision) of the Acting Great Plains Regional Director (Regional Director), Bureau of Indian Affairs (BIA), cancelling Appellant's grazing permit for Range Unit 231A on the Fort Berthold Indian Reservation. Appellant's appeal was received by the Regional Director, who forwarded it to the Board.

On receipt of the appeal, the Board ordered Appellant to complete service of his appeal on interested parties, as required by 43 C.F.R. §§ 4.310(b) and 4.332(a), and to notify the Board that he had done so. The Board also ordered Appellant to show cause (i.e., explain) why the appeal should not be dismissed as untimely on the ground that it was not filed with the Board, either by mail or personal delivery, within 30 days from receipt of the Decision, as required by 43 C.F.R. §§ 4.310(a) and 4.332(a). Pre-Docketing Notice, Order for Appellant to Complete Service, and Order for Appellant to Show Cause, Dec. 19, 2014, at 1-3 (OSC). The Board explained that an appellant who has been given correct appeal instructions but files his appeal in the wrong office within the Department of the Interior bears the risk of delay in the transmittal of the appeal to the Board. *Id.* at 2; *see, e.g., Siemion v. Rocky Mountain Regional Director*, 48 IBIA 249, 256 (2009). The Board set a deadline of January 23, 2015, for Appellant to comply with the Board's order, and advised Appellant that if he failed to comply with or respond to the Board's order, his appeal might be dismissed without further notice. OSC at 2-3.

The Board's order was mailed by certified mail to the address listed on Appellant's notice of appeal. The certified mailing was returned to the Board by the Postal Service as

“unclaimed.” The Board resent the Board’s order to the same address by regular U.S. mail and it has not been returned to the Board.¹

The Board has received no response from Appellant. Accordingly, the Board dismisses this appeal for failure to prosecute.²

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.

I concur:

// original signed
Thomas A. Blaser
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge

¹ In seeking to appeal from the Decision, it was Appellant’s responsibility to provide an address at which he would accept correspondence. *See Estate of William Hamilton, Sr.*, 52 IBIA 161, 162 (2010).

² After the deadline for Appellant’s response to the Board’s order, the Regional Director requested that the Board dismiss the appeal or for other relief. Because we dismiss the appeal for failure to prosecute, the Regional Director’s request is moot.