



INTERIOR BOARD OF INDIAN APPEALS

Rodney J. Schall v. Northwest Regional Director, Bureau of Indian Affairs

61 IBIA 271 (09/21/2015)



United States Department of the Interior

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

RODNEY J. SCHALL,)	Order Affirming Decision
Appellant,)	
)	
v.)	
)	Docket No. IBIA 13-141
NORTHWEST REGIONAL)	
DIRECTOR, BUREAU OF INDIAN)	
AFFAIRS,)	
Appellee.)	September 21, 2015

Rodney J. Schall (Appellant) appealed to the Board of Indian Appeals (Board) from an August 14, 2013, decision of the Northwest Regional Director (Regional Director), Bureau of Indian Affairs (BIA), to cancel Appellant’s grazing permit¹ for nonpayment of rental fees.² We summarily affirm the Regional Director’s decision because Appellant bears the burden of proving that the Regional Director erred, and Appellant does not make any allegations of error in his appeal to the Board. Appellant does not dispute BIA’s findings that he was delinquent on his rent and failed to respond to a notice of violation.

In his Notice of Appeal, Appellant stated that his small cattle operation was struggling financially, and that he needed the grazing permit to maintain the operation. Appellant requested that the cancellation decision be “reconsider[ed].” Notice of Appeal.

¹ Grazing Permit No. 0-00015-11-20, for Range Unit #15 on the Flathead Indian Reservation of the Confederated Salish and Kootenai Tribes of Montana.

² Upon receipt of the appeal, the Board ordered Appellant to complete service of the appeal, *see* 43 C.F.R. §§ 4.310(b) and 4.332(a), and to remit the arrears and continue to pay rent while the permit cancellation decision remained ineffective during the pendency of the appeal, *see* 25 C.F.R. § 166.707. The Board advised the parties that, while Appellant’s payment of rent pursuant to § 166.707 would not affect the underlying merits of BIA’s cancellation decision, nor would it constitute a cure for any breach of the permit, the parties were not precluded from pursuing a voluntary resolution of the appeal. Although it appears that Appellant remitted the arrears and continued to pay rent, the Board received no indication that the parties voluntarily resolved the appeal, or are attempting to do so, and thus we issue this decision.

Appellant did not file an opening brief, although the Board advised Appellant in the Order Setting Briefing Schedule that he bore the burden of proving error in the Regional Director's decision. The Regional Director filed an answer brief, to which Appellant did not respond.

The Board has consistently held that an appellant who fails to make any allegation of error in a Regional Director's decision, much less any argument in support of such an allegation, has not carried his burden of proof. *Little v. Acting Southern Plains Regional Director*, 50 IBIA 248, 248-49 (2009); *Steve Her Many Horses v. Acting Great Plains Regional Director*, 47 IBIA 71, 71-72 (2008); *see also Bell v. Acting Billings Area Director*, 29 IBIA 105, 105-06 (1996). Because Appellant has made no allegations of error in the Regional Director's decision, he has not met his burden of proof.³

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 affirms the Regional Director's August 14, 2013, decision.

I concur:

// original signed
Thomas A. Blaser
Administrative Judge

//original signed
Steven K. Linscheid
Chief Administrative Judge

³ In addition, we have reviewed the administrative record and find that the record supports the Regional Director's decision.