



## INTERIOR BOARD OF INDIAN APPEALS

Danielle Adams v. Great Plains Regional Director, Bureau of Indian Affairs

64 IBIA 3 (10/11/2016)



# 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

DANIELLE ADAMS,	)	Order Dismissing Appeal
Appellant,	)	
	)	
v.	)	
	)	Docket No. IBIA 16-016
GREAT PLAINS REGIONAL	)	
DIRECTOR, BUREAU OF INDIAN	)	
AFFAIRS,	)	
Appellee.	)	October 11, 2016

Danielle Adams (Appellant) received a notice of trespass from the Sisseton Agency Superintendent (Superintendent), Bureau of Indian Affairs (BIA), on August 12, 2015.<sup>1</sup> Appellant appealed the notice to the Great Plains Regional Director (Regional Director), BIA, who summarily dismissed the appeal on the ground that a notice of trespass is not subject to administrative appeal under 25 C.F.R. Part 2. Appellant has asked the Board of Indian Appeals (Board) to review the Regional Director’s September 24, 2015, decision.<sup>2</sup> But because notices of trespass expire as a matter of law after 1 year, and Appellant received the Superintendent’s notice more than a year ago, the notice has expired and nothing turns on a decision by the Board. Therefore, we dismiss the appeal as moot.

The Board “does not consider appeals that are moot — i.e., where nothing turns on the outcome and no relief is available.” *Schmidt v. Bureau of Indian Affairs*, 54 IBIA 173, 177 (2011). The doctrine of mootness is based on the requirement that an active case or controversy must be present at all stages of the proceedings. *Iron v. Acting Rocky Mountain Regional Director*, 63 IBIA 28, 28 (2016). The Board adheres to the doctrine of mootness as a matter of prudence and in the interest of administrative economy. *Id.*; *Bighorse v. Southern Plains Regional Director*, 59 IBIA 1, 13 (2014), and cases cited therein.

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<sup>1</sup> According to the notice, although Appellant was devised a house located on a portion of Sisseton-Wahpeton Allotment 811-C, she neither owned nor had a valid lease for the land and therefore did not have permission to occupy the land. Letter from Superintendent to Appellant, Aug. 10, 2015, at 1 (Administrative Record (AR) 1, Attachment 1).

<sup>2</sup> Letter from Regional Director to Appellant, Sept. 24, 2015 (Decision) (AR 2).

A trespass notice will remain in effect for 1 year from the date of receipt by the alleged trespasser. 25 C.F.R. § 166.805. According to the U.S. Postal Service Track-and-Confirm service on its website, Appellant received the Superintendent's notice of trespass over a year ago, on August 12, 2015. Thus, the notice has expired. Even if Appellant were to demonstrate that the notice was issued in error, the only relief available to Appellant would be withdrawal of the notice, *see* 25 C.F.R. § 166.804(b), and withdrawal of an expired notice would have no effect. Accordingly, we dismiss the appeal as moot. *See Schmidt*, 54 IBIA at 176-77 (dismissing appeal from an expired notice of trespass as moot).<sup>3</sup>

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 dismisses this appeal.

I concur:

\_\_\_\_\_  
// original signed  
Thomas A. Blaser  
Chief Administrative Judge

\_\_\_\_\_  
//original signed  
Robert E. Hall  
Administrative Judge

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<sup>3</sup> As an additional basis for dismissing the appeal as moot, the Regional Director contends that the notice was superseded by a second notice of trespass that the Superintendent issued to Appellant on September 8, 2015, after Appellant had appealed to the Regional Director from the first notice. *See* Regional Director's Motion to Dismiss and Answer Brief, May 5, 2016, at 9-10; Notice of Appeal, Aug. 18, 2015 (AR 1). Whatever relevance, if any, the second notice may have had to this proceeding, that notice has also apparently expired. And because we dismiss this appeal as moot, we do not address the Regional Director's dismissal of Appellant's appeal on the ground that trespass notices are not subject to appeal. *See* Decision at 1 (citing 25 C.F.R. § 166.803(c)).