

JOHN F. BROWN, Appellant
GEORGETTE B. LEE, Appellee

IBLA 74-224 Decided June 28, 1974

Appeal from decision of Eastern States Office, Bureau of Land Management, rejecting in part oil and gas lease offers ES 11733, 11734, and 11770.

Dismissed.

Rules of Practice: Appeals: Dismissal

A statement of reasons which does not point out the ground upon which the decision appealed from is in error will be treated in the same manner as an appeal in which no statement of reasons is filed and the appeal will be dismissed. A statement of reasons which asserts collusion between land office personnel and other applicants but furnishes no proof thereof does not meet the requirement to show affirmatively in what respect the decision appealed from is in error and will be dismissed.

APPEARANCES: John F. Brown, Ft. Smith, Arkansas, pro se; James W. McDade, Esq., Washington, D.C., for appellee; Loretta C. Douglas, Esq., Solicitor's Office, for the Bureau of Land Management.

DECISION BY ADMINISTRATIVE JUDGE FISHMAN

Mrs. Georgette B. Lee, (appellee) filed seven copies of acquired lands oil and gas lease offers, ES 11567 and 11568, on January 16, 1973, at the Eastern States Office, Bureau of Land Management covering lands within the Ozard National Forest. After receipt of reports from the Geological Survey and the Forest Service, United States Department of Agriculture, and the written acceptance of special stipulations, leases issued to appellee on January 7, 1974, effective February 1, 1974.

On February 20, 1973, more than a month after the date of Mrs. Lee's filings, appellant filed his three oil and gas lease offers involved in this appeal. The offers covered some or all of the lands applied for and now under lease to Mrs. Lee. Appellant's lease offers were rejected on January 29, 1974, and on February 4, 1974, to the extent they conflicted with the leases which were issued pursuant to the prior-filed applications, and in part for other reasons. This appeal followed.

Appellant seeks to establish his case by discrediting the prior filings. He attacks the validity of those filings by charging that 1) Mrs. Lee failed to file the requisite number of signed copies of her lease applications because "she signed the first and the remaining six were carbons"; 2) Mrs. Lee is not a sole party in interest although she stated otherwise in her offers; and 3) "I believe that Mrs. Lee has inside information from the Eastern States Office."

If Mrs. Lee had failed to file the requisite number of signed lease offers, her offers could not have been assigned priority until the deficiency was corrected. However, even if Mrs. Lee signed only the original and impressed her signature through the carbons intending the carbons as true copies or original signatures, they were properly accepted as such and, all else being regular, they were properly afforded priority from the date of filing. See Duncan Miller, 10 IBLA 208 (1973); Mary I. Arata, 4 IBLA 201, 78 I.D. 397 (1971).

Secondly, appellant charges that Mrs. Lee's statements concerning the sole party in interest are not true. This charge, if established, would be a sufficient ground to cancel her issued leases; in that case priority would be assigned to appellant's filings. The third charge asserts improper collaboration by Eastern States Office personnel with appellee designed to create and maintain priority of Mrs. Lee's filings.

The burden rests with appellant to set forth the reasons for his appeal and to show in what manner the decision below is in error. 43 CFR 4.412. Because of the seriousness of the charges, and even though appellant failed to submit a scintilla of evidence to substantiate his allegations, the Board has carefully reviewed the records. There is no evidence of wrongdoing by Eastern States personnel. The records are all in order and were duly processed. Nor is there any justification to question appellee's statement that she is the sole party in interest, since she has clearly indicated that she agreed to sell the lease after her offers were filed.

The rules of practice concerning appeals procedures, 43 CFR 4.400, et seq., require an appellant to state his reasons and to present argument in support of his appeal. Appellant's statement, while asserting collusion by the land office personnel with Mrs. Lee, does not afford a sufficient predicate upon which an informed determination may be made concerning such assertions. No prima facie showing has been made that the Bureau personnel acted improperly or that Mrs. Lee was granted preferential treatment. The statement of reasons is essentially nothing more than a series of assertions. When an attempt is made to shift the burden to the Department of showing where the decision below is in error, the appeal will be treated in the same manner as an appeal in which no statement of reasons was filed within the permitted time and the appeal will be dismissed. Duncan Miller, 65 I.D. 290 (1958); Helen V. Bailey et al., 11 IBLA 51 (1973); United States v. Maus, 6 IBLA 164 (1972).

Therefore, pursuant to the authority delegated by the Secretary to the Board of Land Appeals, 43 CFR 4.1, the appeal is dismissed. Unearned advance rentals will be refunded by the field office as soon as possible after files are returned to it.

Frederick Fishman
Administrative Judge

We concur.

Edward W. Stuebing
Administrative Judge

Joan B. Thompson
Administrative Judge

