



INTERIOR BOARD OF INDIAN APPEALS

Roland Gourneau v. Acting Aberdeen Area Director, Bureau of Indian Affairs

30 IBIA 5 (09/19/1996)



# United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

ROLAND GOURNEAU, : Order Docketing Appeal and  
Appellant : Affirming Decision  
: :  
v. : :  
: Docket No. IBIA 96-101-A  
ACTING ABERDEEN AREA DIRECTOR, : :  
BUREAU OF INDIAN AFFAIRS, : :  
Appellee : September 19, 1996

This is an appeal from a June 19, 1996, decision of the Acting Aberdeen Area Director, Bureau of Indian Affairs, declining to terminate a lease of appellant's land to the Turtle Mountain Housing Authority on the grounds that the Housing Authority had not consented to the cancellation.

The Board received the administrative record on August 1, 1996. The record did not show consent to the cancellation by either the Housing Authority or the tenants occupying the house on appellant's property. Nor did it show any basis for cancellation of the lease for cause. Rather, the record indicated that appellant sought to cancel the lease so that he could use the land himself.

Upon review of the record, the Board considered it likely that this appeal would be controlled by the Board's decision in Comanche Housing Authority v. Anadarko Area Director, 22 IBIA 271 (1992), even though the facts here appeared less complex than the facts in that case. The Board therefore issued an order to show cause, giving appellant an opportunity to show that his appeal was not controlled by Comanche Housing Authority.

In its August 2, 1996, order, the Board stated:

In Comanche Housing Authority, the landowners and the Housing Authority had agreed to cancel a lease, and BIA cancelled the lease based upon that agreement. However, the Board reversed the cancellation because the sublessee (the tenant occupying the house) had not consented to the cancellation and the Department of Housing and Urban Development had not been notified.

The Board furnished appellant with a copy of Comanche Housing Authority to assist him in preparing his response.

In his response, appellant states:

I have been in contact with HUD out of Denver and they have confirmed any interest they had on the land has been paid for in full therefore terminating any and all interest that they had

on the land. Also they have told me that they do not know why my land should be held from me any longer.

Appellant does not furnish a written statement from HUD confirming the termination of its interest. For purposes of this decision, however, the Board assumes that HUD either has made such a statement in writing or would do so if asked.

Appellant does not state that he has obtained the consent of either the Housing Authority or the tenants. Nor does he state any basis upon which the lease could be cancelled for cause.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the interior, 43 CFR 4.1, this appeal is docketed, and the Acting Area Director's June 19, 1996, decision is affirmed.

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//original signed  
Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge