



INTERIOR BOARD OF INDIAN APPEALS

Dee Adams v. Portland Area Director, Bureau of Indian Affairs

30 IBIA 126 (12/03/1996)



United States Department of the Interior

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

DEE ADAMS,		: Order Docketing and Dismissing
	Appellant	: Appeal
v.		:
		:
PORTLAND AREA DIRECTOR,		: Docket No. IBIA 97-51-A
BUREAU OF INDIAN AFFAIRS,		:
	Appellee	: December 3, 1996

On December 2, 1996, the Board of Indian Appeals (Board) received from the Portland Area Director, Bureau of Indian Affairs (Area Director), a notice of appeal that had been filed with the Area Director by Dee Adams (appellant). Appellant sought review of an October 11, 1996, decision issued by the Area Director concerning a rental rate adjustment for Yakama Lease No. 1-7232. Appellant uses the leased property for the operation of the Renegade Raceway dragstrip.

The Area Director's decision stated:

This decision may be appealed to the Interior Board of Indian Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340. Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. * * * You must send copies of your notice of appeal to (1) the Assistant Secretary - Indian Affairs * * *, (2) each interested party known to you, and (3) this office. Your notice of appeal sent to the Board of Indian Appeals must certify that you have sent copies to these parties. If you file a notice of appeal, the Board of Indian Appeals will notify you of further appeal procedures.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Appellant has failed to file a timely notice of appeal. The Area Director's decision clearly informed him that his notice of appeal was to be filed with the Board, and provided the Board's address. Appellant did not follow the Area Director's instructions but, instead, filed his notice of appeal with the Area Director. The Board has consistently held that a notice of appeal is not timely when the appellant has been given the correct appeal information but files his/her notice of appeal with an official other than the Board, resulting in receipt of the notice of appeal by the Board

outside the time period specified in the regulations. E.g., Simon v. Sacramento Area Director, 29 IBIA 59 (1996), and cases cited therein.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Portland Area Director's October 11, 1996, decision is docketed and dismissed as not being timely filed.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge