



INTERIOR BOARD OF INDIAN APPEALS

Danny Sioux v. Acting Rocky Mountain Regional Director,
Bureau of Indian Affairs

39 IBIA 136 (09/17/2003)

Related Board cases:

37 IBIA 303

38 IBIA 75



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

| | | |
|---------------------------|---|---------------------------------------|
| DANNY SIOUX, | : | Order Docketing and Dismissing Appeal |
| Appellant | : | |
| | : | |
| v. | : | |
| | : | Docket No. IBIA 03-118-A |
| ACTING ROCKY MOUNTAIN | : | |
| REGIONAL DIRECTOR, BUREAU | : | |
| OF INDIAN AFFAIRS, | : | |
| Appellee | : | September 17, 2003 |

Appellant Danny Sioux sought review of a March 25, 2002, decision of the Acting Rocky Mountain Regional Director, Bureau of Indian Affairs (Regional Director) concerning the cancellation of his lease on Northern Cheyenne Allotment 616. Appellant's July 19, 2002, notice of appeal was addressed to the Board of Indian Appeals (Board); however, the Board did not receive the appeal until June 26, 2003, when it was transmitted to the Board by the Regional Director. For the reasons below, the Board docketed this appeal, but dismisses it as untimely and for failure to prosecute.

On June 30, 2003, the Board ordered Appellant to provide evidence by July 21, 2003, that his appeal was mailed to the Board on or about July 19, 2002. The Board advised that if Appellant had no evidence showing that his appeal was mailed to the Board, then he should file a statement stating so.

Appellant responded on July 16, 2003, stating that he mailed his appeal to the Board on the afternoon of July 19, 2002. In regard to evidence supporting this statement, Appellant said:

I'm unable to mail you a copy at this time, a year later. The receipt of mailing has been misplaced in my house. I send this letter to meet your order to respond by July 23, 2003. Enclosed is a copy of my Notice of Appeal dated July 19, 2002.

Appellant's July 16, 2003, Response at 1. Appellant did not serve his response on all interested parties.

In a July 22, 2003, order, the Board treated Appellant's statement as a request for an extension of time to locate his receipt and gave him until September 1, 2003, to provide evidence of mailing. The Board advised Appellant "that if he cannot provide proof issued by the United States Postal Service, then his appeal will be dismissed as untimely." (Emphasis omitted). July 22, 2003, Order at 2.

The Board also ordered Appellant to serve his July 16, 2003, response on all interested parties, and provide a statement that he had done so. The Board advised Appellant that "if [he] fail[ed] to respond to this order, his appeal will be dismissed for failure to prosecute." (Emphasis omitted). Id.

The Board has received no response from Appellant in regard to either matter.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed, but dismissed as untimely and for failure to prosecute.

//original signed
Kathleen R. Supernaw
Acting Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge