FRANK L. HALL,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 92-157-A
ABERDEEN AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	September 15, 1992

Appellant Frank L. Hall seeks review of a March 26, 1992, decision issued by the Aberdeen Area Director, Bureau of Indian Affairs (Area Director; BIA), cancelling a grazing permit for Range Unit 32 on the Crow Creek Reservation. For the reasons discussed below, the Board of Indian Appeals (Board) affirms that decision.

Appellant had permits covering the 1992 grazing season on Range Units 29 and 32 on the Crow Creek Reservation. On or about December 18, 1991, appellant's wife tendered a check in the amount of $4,300 to the Crow Creek Agency. The check left an outstanding balance of $2,934.18 on the two permits. By letter dated January 15, 1992, the Acting Agency Superintendent (Superintendent) informed appellant that if payment in full was not received within fourteen days, both range units would be cancelled.

When full payment was not received, by letter dated February 21, 1992, appellant was informed that both range units were cancelled. Appellant was notified of his right to appeal this decision.

Appellant filed an appeal, which the agency received on March 2, 1992. By letter dated March 5, 1992, the Superintendent informed appellant that $4,034.99 of the previous payment was being applied to the rental for Range Unit 29, and that the decision to cancel Range Unit 29 was rescinded. The Superintendent stated that the remaining amount tendered, $265.01, was being returned to appellant's wife as an overpayment. The Superintendent informed appellant that Range Unit 32 remained cancelled, and that his appeal was being forwarded to the Aberdeen Area Office.

By letter dated March 26, 1992, the Area Director upheld the cancellation of Range Unit 32. The Area Director found that the full rental for this unit had not been received, and that cancellation was appropriate.

The Board received appellant's notice of appeal from this decision on May 8, 1992. The notice of appeal indicated that appellant was appealing

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on the same grounds as were set forth in the notice of appeal to the Area Director. No further briefs were filed.

Appellant states that he did not receive the Superintendent's January 15, 1992, letter because he was out of the state. He indicates that because he did not know when the time period began to run, he did not respond. Appellant admits, however, that he was informed by the "Acting Land Operations Officer," that he was required to respond. Under these circumstances, appellant's failure to respond to this letter cannot be excused.

Appellant also states that another individual

> is interested in the 1992 grazing season. He agreed on a partial payment to me consisting of $3000. dollars and had included this amount in a transaction with his bank. My intention of paying the balance on this lease was based on my and [the individual's] agreement. Without my having to go to another source and borrow and having to pay interest.

Assuming that this is an arrangement that is permissible under the permit, 1/ appellant should have raised it in response to the January 15, 1992, letter. Appellant's belated explanations do not render the cancellation decision invalid. Cf., e.g., Tiger Outdoor Advertising, Inc. v. Eastern Area Director, 22 IBIA 280, 288 (1992) (an appellant's belated cure of a breach does not render the cancellation decision invalid).

Finally, appellant objects that his rental payments are due November 1 but the grazing season does not begin until May 1 of the following year. Although no copy of appellant's permit is in the administrative record, the due date for rental payments should be, and presumably is, established in the permit. Appellant admits he was on notice of the date his rental payments were due. BIA was under no obligation to modify the provisions of a permit which had been breached.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Aberdeen Area Director's March 26, 1992, decision is affirmed.

Kathryn A. Lynn	Anita Vogt
Chief Administrative Judge	Administrative Judge

1/ The arrangement has the appearance of either a subpermit or an assignment. Subpermits and assignments are subject to BIA approval. See 25 CFR 166.15(a). It is also possible, however, that appellant is referring to some other kind of agreement, such as one to run livestock for the other individual.

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