CHARLES ARCHAMBAULT,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 95-63-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	January 11, 1995

On January 9, 1995, the Board of Indian Appeals received an apparent notice of appeal from Charles E. Archambault, pro se. The notice stated in its entirety: "This is my Notice of Appeal regarding the decision rendered by the Superintendent, Fort Belknap Agency, regarding matters relating to 0 & M Charges against me."

The Board contacted the Billings Area Office, Bureau of Indian Affairs, to learn whether this matter was pending before the Area Director. The Board was informed that the Superintendent issued a decision on June 17, 1994; that Archambault appealed the Superintendent's decision to the Area Director; and that the Area Director issued a decision in the appeal on November 28, 1994. The Area Office was not aware of any subsequent Superintendent's decision on the subject. Under these circumstances, it appears likely that appellant is actually attempting to appeal the Area Director's November 28, 1994, decision.

The Area Director's decision provided correct appeal information, stating in relevant part:

> 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.
>
> * * * * * *
>
> 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.

As shown by the receipt for certified mail, appellant received the Area Director's decision on November 29, 1994. His notice of appeal is postmarked January 4, 1995, and is therefore untimely. The Board's regulations provide, at 43 CFR 4.332 (a): "A notice of appeal not timely

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filed shall be dismissed for lack of jurisdiction." Therefore, assuming appellant intended to appeal the Area Director's November 28, 1994, decision, his appeal must be dismissed as untimely.

If, on the other hand, appellant intended to appeal a decision made by the Superintendent, the Board lacks jurisdiction over it by reason of 43 CFR 4.331, which provides that a party may appeal a decision of a BIA official to the Board "except--(a) To the extent that decisions which are subject to appeal to a higher official within the Bureau of Indian Affairs must first be appealed to that official."

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 dismissed. 1/

_____
Anita Vogt
Administrative Judge

_____
Kathryn A. Lynn
Chief Administrative Judge

1/ If appellant is attempting to appeal a Superintendent's decision, other than the June 17, 1994, decision addressed in the Area Director's Nov. 28, 1994, decision, this dismissal is without prejudice to appellant's right to pursue an appeal to the Area Director.

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