CHARLENE W. DELAUNAY,	:	Order Docketing and Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 99-31-A
BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 30, 1999

Appellant Charlene W. Delaunay seeks review of two letters, dated October 14, 1998, and January 21, 1999, written by the Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning the leasing of Tribal Tract No. T1115 on the Wind River Reservation. For the reasons discussed below, the Board of Indian Appeals (Board) dismisses this appeal.

On August 27, 1998, Appellant wrote to the Area Director concerning the leasing of T1115. The Area Director responded on October 14, 1998. According to the Area Director, T1115 was leased to Floyd Collins from January 1, 1989, through December 31, 1993. Collins applied to renew the lease on October 15, 1993. The application was presented to the Joint Business Council (JBC) of the Shoshone and Arapahoe Tribes on January 5, 1994, but was tabled several times. The Superintendent, Wind River Agency (Superintendent), became involved in 1995, when Collins inquired about the status of his application. Although Collins did not have an approved lease, he used the land for the 1994 through 1998 seasons. The tract is irrigable, and Collins was assessed irrigation operation and maintenance (O&M) charges. He paid the 1996 and 1998 charges, but, as of October 14, 1998, was delinquent for the 1995 and 1997 charges. In his letter, the Area Director admitted that the Agency had made several mistakes in the handling of the lease for T1115, and instructed the Superintendent to inform Appellant of the status of her application.

In a November 13, 1998, filing with the Board, Appellant questioned the competency and fairness of BIA personnel handling leasing on the Wind River Reservation. Because it was not clear whether Appellant was filing an appeal, or merely wanted to bring these matters to the Board's attention, the Board requested clarification of her intent. Appellant responded that she intended to appeal Item #12 on page 3 of the Area Director's October 14, 1998, letter, which states: "The superintendent advised us that applications have been received from [Appellant] and Mr. Collins for the use of this tract of land." Appellant contended: "Due to the delinquent nature of Tribal Lease #T1115, I believe Mr. Collins should not be given the right to file an application for a lease renewal on this tract."

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After the Board received Appellant's November 13, 1998, filing, it received information from the Area Director concerning his October 14, 1998, instructions to the Superintendent. The Board stayed proceedings before it pending the completion of further review by the Area Director.

The Area Director wrote Appellant a second letter on January 21, 1999. He stated that the JBC decided to award T1115 to Collins despite also having Appellant's application before it, and that "[t]he JBC's action controls who will be awarded the lease." Jan. 21, 1999, Letter at 1. The Area Director continued: "If you have any further dispute of the JBC's action and/or the way they exercise their leasing practices, you would need to address those concerns with them." Id. at 2.

The Board requested, and was furnished, a copy of the JBC minutes of December 2, 1998, during which the JBC discussed the leasing of T1115. Those minutes show that the Superintendent informed the JBC of the problems with Collins' past performance, acknowledged that BIA had taken actions which did not help the situation, and raised Appellant's contention that BIA should have cancelled Collins' lease because of his failure to pay all O&M charges. The minutes further show that, after a lengthy discussion, the JBC decided to lease to Collins despite the previous problems.

The Board informed Appellant that it appeared the decision to which she objected had been made by the JBC, not by BIA. Citing Hunt v. Aberdeen Area Director, 27 IBIA 173 (1995), the Board advised Appellant that it has held that it does not have jurisdiction to review decisions made by appropriate tribal forums, and that, in order for this appeal to go forward, she would have to show that the Board has jurisdiction to review the JBC's decision.

In an April 18, 1999, filing, Appellant argues that "Collins' Application for Renewal should not have been presented to the [JBC] for a decision as the contract had been delinquent for 2 of the 5 contract years. * * * The BIA should not be submitting delinquent contracts to the JBC. If correct procedures were followed, the Board would not be faced with trying to overturn the JBC decision."

It appears that Appellant believes that BIA should screen all lease applications before the applications are sent to the JBC and should not present applications from individuals who have had problems in the past. However, Appellant cites no authority for such screening.

The lands involved in this dispute are tribally owned. The Tribes, through the JBC, have the authority to lease their own lands. See 25 C.F.R. § 162.3(d); Lower Peoples Creek Cooperative v. Acting Billings Area Director, 23 IBIA 297, 301 (1993). BIA has no authority either to force the Tribes to lease their lands to particular individuals or to deny them the right to lease to particular individuals by not informing them of lease offers. Cf. 25 C.F.R. § 162.2 (setting forth the extent of BIA's leasing authority).

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The fact that BIA presented lease applications to the JBC does not make the decision to lease T1115 a BIA decision rather than a JBC decision. The Board has previously held that it does not have authority to review decisions made by appropriate tribal forums. Hunt, supra. Appellant has presented nothing which shows that the Board has jurisdiction over the tribal decision underlying her complaint.

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 from the Billings Area Director's October 14, 1998, and January 21, 1999, letters is docketed but dismissed for lack of jurisdiction.

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Kathryn A. Lynn
Chief Administrative Judge

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Anita Vogt
Administrative Judge

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