
ALBERTA ENVIRONMENTAL APPEALS BOARD

Decision

Date of Decision – July 24, 2018

IN THE MATTER OF sections 91, 92, and 95 of the *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12, and section 115 of the *Water Act*, R.S.A. 2000, c. W-3;

-and-

IN THE MATTER OF an appeal filed by Donald Belland with respect to the decision of the Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks, to issue Enforcement Order No. WA-EO-2017/06-RDNSR to Donald Belland.

Cite as: *Belland v. Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks* (24 July 2018), Appeal No. 17-067-D (A.E.A.B.).

BEFORE:

Mr. Alex MacWilliam, Board Chair.

PARTICIPANT:

Appellant:

Mr. Donald Belland.

EXECUTIVE SUMMARY

The Environmental Appeals Board (the Board) received a Notice of Appeal from Mr. Donald Belland (the Appellant) on September 27, 2017, with respect to the August 17, 2017 decision of Alberta Environment and Parks to issue an Enforcement Order under the *Water Act* to the Appellant for allegedly commencing or continuing an activity without an approval.

The Board wrote to the Appellant on three separate occasions requesting written submissions on why his appeal was filed after the expiry of the period prescribed in the legislation (seven days after receipt of the enforcement order). The Board also phoned the Appellant twice. All letters were delivered by courier and signed for by the Appellant, but the Appellant did not respond. The Board advised the Appellant if he did not provide a written submission by December 1, 2017, the Board would have the ability to dismiss the appeal. No response was received from the Appellant.

The Board dismissed the appeal since the Appellant failed to respond to the Board's request for additional information.

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I. BACKGROUND

[1] On September 27, 2017, the Environmental Appeals Board (the “Board”) received a Notice of Appeal from Mr. Donald Belland (the “Appellant”) regarding the August 17, 2017 decision of the Director, Red Deer-North Saskatchewan Region, Alberta Environment and Parks (the “Director”), to issue Enforcement Order No. WA-EO-2017/06-RDNSR, pursuant to the *Water Act*, R.S.A. 2000, c. W-3, to the Appellant for allegedly commencing or continuing an activity without an approval at SW-5-58-9-W4M in the County of St. Paul No. 19.

[2] On October 10, 2017, the Board wrote to the Appellant and the Director (collectively, the "Parties") acknowledging receipt of the Notice of Appeal and requesting the Director provide the documents upon which his decision was based.

[3] On October 12, 2017, the Director submitted a motion to dismiss the appeal on the basis the appeal was filed after the expiry of the statutory period which requires the submission of a Notice of Appeal not later than seven days after receipt of a copy of the enforcement order.

[4] On October 17, 2017, the Board wrote to the Parties and set a written submission process to address the Director’s motion to dismiss the appeal. The Appellant was requested to provide the Board with written comments on questions relating to the Director’s motion by October 31, 2017.¹ Courier records show the letter was delivered and signed for by the Appellant on October 25, 2017.

[5] On November 3, 2017, the Board placed a telephone call to the Appellant’s phone number. The person who answered the phone said the Board staff had called the wrong number, although the Appellant’s name appeared on the call display.

¹ The Board requested the Appellant answer the following:

1. Demonstrate to the Board when he received the Enforcement Order from Alberta Environment and Parks;
2. If the Notice of Appeal was filed outside the 7-day timeline, provide an explanation as to why it was filed late;
3. Advise if he was requesting an extension of time to appeal; and
4. If requesting an extension of time to appeal, provide the reasons why the Board should grant an extension.

[6] On November 7, 2017, the Board wrote to the Parties advising the Board did not receive a written submission from the Appellant and requested the Appellant provide the Board with written comments by November 17, 2017. The Board warned the Appellant that if no response was provided by that date, the Board may dismiss the appeal. Courier records show the letter was delivered and signed for by the Appellant on November 10, 2017. No response to this letter was received from the Appellant.

[7] On November 21, 2017, Board staff called the Appellant again and left a message for him to call back to discuss his appeal. The Appellant did not respond.

[8] On November 23, 2017, the Board wrote to the Parties advising the Board did not receive a written submission from the Appellant, and the Board had the ability to dismiss an appeal if information requested from the Appellant was not provided to the Board by December 1, 2017. Courier records indicate the November 23, 2017 letter was delivered to the Appellant on November 24, 2017. No response to this letter was received from the Appellant.

[9] On December 22, 2017, the Board notified the Parties the appeal was dismissed. These are the Board's reasons for this decision.

II. ANALYSIS

[10] Under section 95(5)(a)(iv) of *Environmental Protection and Enhancement Act*, R.S.A. 2000, c. E-12 ("EPEA"),² the Board has the authority to dismiss an appeal if an appellant fails to provide information requested by the Board.

² Section 95(5):

"The Board

(a) may dismiss a notice of appeal if

(iv) the person who submitted the notice of appeal fails to comply with a written notice under section 92...."

Section 92 provides:

"Where the Board receives a notice of appeal, it may by written notice given to the person who submitted the notice of appeal require the submission of additional information specified in the written notice by the time specified in the written notice."

[11] In this case, the Board made numerous requests for the Appellant to provide written submissions to explain why his appeal was filed after the legislated deadline. The Board attempted to contact the Appellant in writing and by telephone. The Board used the contact information provided in the Notice of Appeal. The Board sent the Appellant three separate letters via registered mail. The Appellant received and signed for each of the letters, but did not respond to the Board's request for the additional information.

[12] The Board also attempted to contact the Appellant by telephone on two occasions, but neither resulted in the Appellant responding to the Board.

[13] In the final letter to the Appellant, the Board clearly stated it may dismiss the appeal if the Appellant did not respond. No response was provided. In summary, the Appellant failed to make any attempts to pursue his appeal since the Notice of Appeal was filed.

[14] Given the Appellant's refusal to respond to the Board's multiple requests for additional information, the Board dismisses the appeal.

III. CONCLUSION

[15] Pursuant to section 95(5) of EPEA, the Board dismisses the appeal for failing to respond to the Board's requests for additional information.

Dated on July 24, 2018, at Edmonton, Alberta.

"original signed by"
Alex MacWilliam
Board Chair