

GEORGE E. CONLEY

IBLA 72-361 Decided February 7, 1973

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, denying reinstatement of oil and gas lease NM 8673 terminated by operation of law for failure to pay the annual rentals on or prior to the due date.

Reversed.

Oil and Gas Leases: Reinstatement—Oil and Gas Leases: Rentals

Where it is alleged that a bank erroneously dishonored a check drawn thereon, and an official of the bank admits that payment was refused by mistake, the failure to pay timely advance rental shall be deemed justifiable so long as payment was otherwise correct.

APPEARANCES: George E. Conley, pro se.

OPINION BY MR. HENRIQUES

George E. Conley appeals from a decision of the New Mexico State Office, Bureau of Land Management, dated March 9, 1972, denying reinstatement of his oil and gas lease, NM 8673, terminated by operation of law for failure to pay timely the annual rental. A number of issues are raised on appeal, but one we consider dispositive.

The payment of the rental was timely made on February 1, 1972, by one Doreen Smith. Subsequent thereto, the check which had been tendered in payment was returned from the bank with a notation that the account was closed. The State Office held the lease was thereby terminated. We agree. On February 15, however, the president of the Bank of Santa Fe wrote the State Office and enclosed the cash sum of \$1,281 in payment for lease NM 8673, and other leases not involved in this appeal, and further indicated that it was error for the bank to have denied payment of Mrs. Smith's check when first presented.

A contention that a bank erroneously closed an account, when corroborated by a statement from a responsible bank official, will

be deemed a "justifiable" reason for failure to timely pay the advance rentals under section 31 of the Mineral Leasing Act. Cf. Duncan Miller, 70 I.D. 113 (1963). See James S. Guleke, 9 IBLA 73 (1973).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed.

Douglas E. Henriques, Member

We concur.

Edward W. Stuebing, Member

Anne Poindexter Lewis, Member

