

KNIGHT & MILLER OIL CORPORATION

IBLA 73-329

Decided January 7, 1974

Appeal from the decision of the Wyoming State Office of the Bureau of Land Management denying reinstatement of oil and gas leases Wyoming 0287782-B and 0287782-C.

Affirmed.

Oil and Gas Leases: Reinstatement--Oil and Gas Leases:  
Rentals

It is proper to deny a request for reinstatement of an oil and gas lease terminated for failure to pay advance rental timely where the petitioner has not shown that its failure to pay the rental on or before the anniversary date of the lease was justifiable or not due to lack of reasonable diligence.

APPEARANCES: William B. Collister, Esq., of Denver, Colorado, for appellant.

OPINION BY MRS. LEWIS

Knight & Miller Oil Corporation has appealed from the March 2, 1973, decision of the Wyoming State Office of the Bureau of Land Management, denying its petition for reinstatement of two oil and gas leases which had terminated for late payment of the annual rentals.

The rentals were due on or before January 2, 1973, in the amount of \$60 for Wyoming 0287782-B and \$160 for Wyoming 0287782-C. Rental checks were received by the Wyoming State Office on January 22, 1973, with a letter dated January 18, 1973, from Knight & Miller Oil Corporation acknowledging that they were past due and requesting favorable consideration.

In separate appeals, which are identical, appellant requests that the leases be reinstated, contending that its failure to pay the rentals on time was due to a justifiable delay. In support thereof, the corporation alleges that during the time when these rentals were

due, the corporation's lease rental department was under the control and supervision of one Gwen Lovendahl; for reasons unknown to corporate management during the period beginning in September 1972, and running through January 1973, rentals were not paid and both the notices of lease rentals received by mail and the lease rental payment checks that should have been passed to management for signature were retained in Gwen Lovendahl's desk, which situation involved all rentals for all of the corporation's leases, including fee, State and Bureau of Land Management leases; and that when management became aware of the problem in the lease rental section, the situation was corrected.

When payment of the annual rental for such a lease is not received on or before the anniversary date the lease is not terminated by the act, deed or decision of any federal employee. Rather, the lease terminates automatically by operation of law, as required by the Act of July 29, 1954, 30 U.S.C. § 188 (1970), and the fact that such termination has occurred is merely noted by the Bureau officer and communicated to the lessee. However, the law permits reinstatement of terminated leases under certain circumstances at the discretion of the Secretary of the Interior. In order to qualify, the lessee must establish to the satisfaction of the Secretary that his failure to pay the rental timely was either justifiable or not due to a lack of reasonable diligence on his part. 30 U.S.C. § 188 (1970); 43 CFR 3108.2-1(c)(2).

In the instant case the rentals were late because appellant in the ordinary course of its business and in its management thereof failed to submit the payments timely. Thus the failure was not justifiable. Nor is it shown that the failure occurred because there was not a lack of due diligence on the part of the appellant. Accordingly, as the conditions permitting acceptance of the late payments and reinstatement of the leases have not been met, we find the leases may not be reinstated. Norman K. Husted, 12 IBLA 341 (1973); John L. Stambaugh, 11 IBLA 27 (1973); Monturah Company, 10 IBLA 347 (1973); Louis Samuel, 8 IBLA 268 (1972).

Therefore, 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 affirmed.

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Anne Poindexter Lewis, Member

We concur:

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Douglas E. Henriques, Member

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Edward W. Stuebing, Member

