

VERN H. BOLINDER

IBLA 77-120

Decided April 11, 1977

Appeal from a decision of the Utah State Office, Bureau of Land Management, denying reinstatement of oil and gas lease U-23848, terminated by operation of law for failure to pay the annual rental on or before the due date.

Affirmed.

1. Oil and Gas Leases: Reinstatement

Under 30 U.S.C. § 188(c) (1970), the Secretary of the Interior has no authority to reinstate an oil and gas lease terminated by operation of law for failure to make timely payment of rental, unless rental payment is tendered at the proper office within 20 days of the due date.

APPEARANCES: Vern H. Bolinder, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Vern H. Bolinder appeals from a decision dated January 10, 1977, by the Utah State Office of the Bureau of Land Management, advising appellant that his payment for the rental of oil and gas lease U-23848 had not been received and that the lease was terminated. The appellant appealed from that decision on January 14, 1977.

The anniversary date of appellant's lease was November 1, 1976. A payment in the sum of \$ 1,190 due by that date was not received. Appellant alleges that the rental check was mailed on October 22, 1976. He contends that when he received his bank statement for the month of November, he found that the check was still outstanding. Appellant wrote the Bureau of Land Management on December 7, 1976, stating that he had mailed his check on October 22, 1976. On January 10, 1977, he was advised that the check had not been received and that the lease had terminated. The appellant offered a new check

on January 14, 1977. It was declined. The Bureau of Land Management has no record of ever having received any other check from the appellant, nor is there any independent evidence that an earlier check was mailed or subsequently lost in the mails.

Appellant's oil and gas lease terminated by operation of law when the annual rental payment was not received in the proper office by the close of business on November 1, 1976. 30 U.S.C. § 188(b) (1970); 43 CFR 3108.2-1(a). Pursuant to 30 U.S.C. § 188(c) (1970), the Board has consistently held that the Secretary has no authority to reinstate a terminated lease unless payment has been tendered within 20 days of the due date. C. J. Iverson, 21 IBLA 312, 82 I.D. 386 (1975); Merilyn K. Buxton, 24 IBLA 269 (1976); Edward Malz, 24 IBLA 251 (1976).

Appellant has provided copies of business records and correspondence to support his allegation that he prepared and mailed the rental check in time and in the correct amount. He concludes that it was either lost in the mail by the Postal Service or in the State Office by Bureau personnel. He does not allude to the possibility that it could be lost en route to the mail box in his own home, office, or automobile, or simply dropped in the street. We are disposed to accept his statement as truthful. However, the issue here is not his credibility. It is our lack of authority under the statute to entertain any application for reinstatement of a lease which was not fully paid within 20 days.

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.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

