

NORMAN MONATH

IBLA 77-364

Decided November 8, 1977

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, canceling appellant's noncompetitive oil and gas lease because the advance rental payment check was returned by the bank as uncollectible.

Affirmed.

1. Oil and Gas Leases: Cancellation--Oil and Gas Leases: Rentals

Where a noncompetitive oil and gas lease is issued to the successful applicant in a drawing of simultaneously-filed offers and the lessee's personal check in payment of the first year's rental is returned by the drawee bank as uncollectible, a decision canceling the lease will be affirmed in the absence of a showing of error on the part of the bank.

APPEARANCES: Norman Monath, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Norman Monath brings this appeal from a decision of the Wyoming State Office, Bureau of Land Management (BLM), canceling his noncompetitive oil and gas lease, W 58971. The decision was prompted by the return to the BLM of appellant's check submitted in payment of the advance rental for the lease. The check was returned by the drawee bank as uncollectible.

Appellant asserts in his statement of reasons for appeal that he inquired of his bank regarding the check and that his "inquiry was mistakenly interpreted as an instruction." Appellant implies that this was the cause for the return of the check as uncollectible.

The record discloses that appellant's oil and gas lease offer received first priority in a drawing of simultaneously filed lease offers for parcel number WY-126 in the March 1977 list of available lands posted by the Wyoming State Office. Consequently, on April 20, 1977, appellant was sent a notice of advance rental payment due in the amount of \$2,560. Appellant sent a check in this amount to the BLM which was received on April 27, 1977. Subsequently, appellant's lease was issued on May 9, 1977. Thereafter, the check was returned as uncollectible and the BLM canceled the lease.

In his statement of reasons appellant states:

I had made an inquiry to my bank about the check and my inquiry was mistakenly interpreted as an instruction. When I found out that the check had been stopped, I called your office to see if I could send a new check and was told that my only redress at that point was to file an appeal.

[1] The regulations pertaining to simultaneously filed oil and gas lease offers are contained in 43 CFR Subpart 3112. The regulation governing advance rental payments under the simultaneous procedures provides as follows:

§ 3112.4-1 Rental payment.

A lease will be issued to the first drawee qualified to receive a lease upon payment of the first year's rental. Rental must be received in the proper office of the Bureau of Land Management within fifteen (15) days from the date of receipt of notice that such payment is due. The drawee failing to submit the rental payment within the time allowed will be automatically disqualified to receive the lease, and consideration will be given to the entry of the drawee having the next highest priority in the drawing.

Moreover, the BLM may consider that a payment has been properly made if appellant can show that the bank erroneously dishonored the check for such payment. Duncan Miller, 70 I.D. 113 (1963).

Appellant failed to submit proper payment during the required 15-day period, as stated above. Moreover, there is no showing of error on the part of the bank in refusing to honor the check. Such a showing cannot be raised by sheer conjecture, as appellant would require us to do. We find that the lease was properly canceled. Dale A. Spiegel, 19 IBLA 235 (1975); Duncan Miller, 10 IBLA 27 (1973); Charles F. Mullins, 6 IBLA 184 (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  
Administrative Judge

We concur:

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Frederick Fishman  
Administrative Judge

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Edward W. Stuebing  
Administrative Judge

