

Editor's note: Reconsideration granted; decision set aside -- See Charles P. Ricci (On reconsideration), 34 IBLA 186 (March 21, 1978)

CHARLES P. RICCI

IBLA 78-3

Decided January 5, 1978

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting Appellant's offer for oil and gas lease W 60592.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing.

An oil and gas lease offer is properly rejected where the offeror's check to cover the filing fee is dishonored by the bank because of insufficient funds in the account on which the check is drawn.

APPEARANCES: Charles P. Ricci, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

This is an appeal from the September 14, 1977, decision of the Wyoming State Office (BLM), rejecting oil and gas lease offer W 60592 because Appellant's check which was to cover the filing fee was returned marked "insufficient funds."

Appellant was the successful applicant for parcel number WY 230 on the July 1977 simultaneous list. In his statement of reasons he explains that the insufficient balance in the account on which the check was drawn was due to an oversight on his part, and that promptly on becoming aware of his error he submitted a money order to BLM.

[1] A drawing entry card for a simultaneous oil and gas lease offer must be accompanied by a remittance covering the filing fee of \$ 10. 43 CFR 3112.2-1(a)(1). When Appellant's check was dishonored his entry card was not accompanied by a remittance to cover the filing fee. Thus, his later submission of a money order could not cure the defect. The Board has consistently held that a check which a bank has refused to honor is not a tender or payment of the required fee unless the refusal to honor was the result of a bank error. Jonathan T. Ames, 33 IBLA 1 (1977); Pauline V. Trigg, 31 IBLA 296 (1977); Wikoa, Inc., 22 IBLA 6 (1975); Duncan Miller, 16 IBLA 379 (1974). No bank error is shown to be present in the case at bar.

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.

Frederick Fishman
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

