

SIGMUND MATEJKO

IBLA 79-351

Decided September 20, 1979

Appeal from decision of the California State Office, Bureau of Land Management, denying reinstatement of oil and gas lease CA 2522.

Affirmed.

1. Oil and Gas Leases: Reinstatement

Under 30 U.S.C. § 188(c) (1976), 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 after the due date.

APPEARANCES: Sigmund Matejko, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Sigmund Matejko appeals from the California State Office, Bureau of Land Management, decision of March 15, 1979, which held that oil and gas lease CA 2522 had terminated February 1, 1979, for failure to pay rental due on or before that date, 43 CFR 3108.2-1(a), and that payment submitted March 2, 1979, could not be accepted to reinstate the lease as the payment was not received within the 20 days after the anniversary date, 43 CFR 3108.2-1(c)(1)(i).

Appellant states that he had not received a notice that rental was due and that his failure to honor his obligation to pay rental timely was probably because of a failing memory due to his advanced age and physical disability.

The statute and implementing regulations specify that an oil and gas lease terminated by operation of law for failure to pay annual rental on time may be reinstated if, among other things, the late payment is either justified or not due to lack of reasonable diligence,

but that a petition for reinstatement may be considered if, and only if, the rental payment is made or tendered within 20 days after the anniversary date.

[1] In this case, the lease CA 2522 was issued February 1, 1975, and was assigned to Sigmund Matejko effective August 1, 1977. Rental payment was due on or before February 1 each year. As the rental payment due February 1, 1979, was not received until March 2, 1979, after the 20-day period allowed by statute, we are precluded by law from giving any favorable consideration or treatment to the request for reinstatement. John A. Steele, Jr., 41 IBLA 49 (1979); Apostolos Paliombelis, 30 IBLA 153 (1977).

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.

Douglas E. Henriques
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

James L. Burski
Administrative Judge

