

KEITH B. LIVERMORE

IBLA 81-114

Decided October 28, 1981

Appeal from a decision of the Eastern States Office, Bureau of Land Management, rejecting oil and gas lease offer. ES 24110.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Rentals

Where, following a drawing of simultaneously filed oil and gas lease offers, a priority applicant fails to submit advance rental within 30 days after receipt of a notice that payment was due, disqualification of the offer is automatic.

APPEARANCES: Keith B. Livermore, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Keith B. Livermore has appealed from a letter decision of the Eastern States Office, Bureau of Land Management (BLM), dated September 29, 1980, rejecting his oil and gas lease offer ES 24110 for parcel ES-8. Appellant was the first-drawn applicant for that parcel in the January 1980 simultaneous oil and gas lease drawing. This offer was rejected because of appellant's failure to make timely payment of the first year's rental.

BLM mailed appellant an undated notice by certified mail return receipt requested which informed him that his drawing entry card had been drawn with first priority and that he had to submit certain information to establish his qualifications to hold a Federal oil and gas lease. The return receipt is signed by D. Livermore and is undated. It was returned to BLM on July 31, 1980. This notice also specifically requested the first year's rental due in the last paragraph stating:

In addition, in accordance with 43 CFR 3112.4-1, payment of the first year's rental as shown below must be received in this office within 30 days from receipt of this Notice.

The first year's rental shall be paid only by the applicant, or his/her attorney-in-fact as described in 43 CFR 3112.4-1(b). ^{1/}

	<u>County No.</u>	<u>Acreage</u>	<u>Rental Due</u>
079	22.16	\$23.00	

If the rental is not paid within the time allowed, you will be automatically disqualified to receive the lease. [Emphasis in original.]

While there is not indication in the record as to what date the notice was actually received, appellant submitted the required certification of his qualifications to hold a Federal oil and gas lease August 4, 1980. The certification is dated July 28, 1980, but his check for the first year's rental was not received by BLM until September 22, 1980, 56 days later. The check was enclosed in a letter dated September 17, 1980, in which appellant asserted he had not seen the notation on the back of the BLM notice indicating the rent was to be paid.

Appellant contends in his statement of reasons that he did not receive a legitimate billing for this lease. He argues that a statement in a mimeographed form letter on the back of the page that rent is due is not a proper notice.

[1] The applicable regulation, 43 CFR 3112.4-1(a), reads as follows:

(a) The lease agreement, consisting of a lease form approved by the Director, Bureau of Land Management, and stipulations included on the posted list or later determined to be necessary, shall be forwarded to the first qualified applicant for signing, together with a request for payment of the first year's rental. Only the personal handwritten signature of the prospective lessee, or his/her attorney-in-fact as described in paragraph (b) of this section, in ink shall be accepted. The first year's rental shall be paid only by the applicant, or his/her attorney-in-fact as described in paragraph (b) of this section. The executed lease agreement and the applicant's rental payment shall be filed in the proper Bureau of Land Management office within 30 days from the date of receipt of notice. Timely receipt of the properly signed lease and rental constitutes the applicant's offer to lease. [Emphasis added.]

^{1/} The regulations governing the simultaneous oil and gas leasing program were revised shortly before BLM issued its notice to appellant. 45 FR 35163 (May 23, 1980). The former regulations provided for only a 15-day notice of rental due.

The BLM notice gave appellant 30 days to submit his rental payment. Appellant's offer was properly rejected by BLM where his rental was not received timely. Arthur Ancowitz, 58 IBLA 112, 113 (1981). Appellant can hardly claim he did not know the rent was due because he did not receive a separate bill for the rental. There is no requirement that the notice of rental due be on a particular form. Arthur Ancowitz, *supra*. The BLM notice clearly specified that a rental payment was due and pointed out the significance for failure to pay timely. Appellant must bear the consequences for his inadvertence in failing to read the entire notice. Accordingly, BLM properly rejected the offer consistent with the Department's traditionally strict enforcement of the requirements of the regulations governing simultaneous oil and gas leasing procedures. See Robert E. Bergman, 53 IBLA 122 (1981); see also Vincent M. D'Amico, 55 IBLA 116, 118 (1981).

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.

Gail M. Frazier
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Bruce R. Harris
Administrative Judge

