

B. W. JONES

IBLA 83-208

Decided March 20, 1984

Appeal from the Montana State Office, Bureau of Land Management, decision rejecting oil and gas lease offer M 54972.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases: Rentals

An applicant receiving priority in a drawing of simultaneously filed oil and gas lease applications who fails to submit the payment of the proper amount of advance rental within 30 days after receipt of a notice that payment is due, as prescribed by 43 CFR 3112.4-1(a), is automatically disqualified to receive a lease.

APPEARANCES: B. W. Jones, pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

B. W. Jones appeals from a decision dated November 5, 1982, by the Montana State Office, Bureau of Land Management (BLM), rejecting her simultaneous oil and gas lease offer M 54972. Appellant's application was drawn with first priority for parcel MT 149 in the March 1982 filing period. By notice of August 31, 1982, appellant was allowed 30 days to furnish the first year's rental and file the signed lease offer forms. BLM rejected appellant's offer because full payment of the first year's rental was not received within the time allowed.

On September 3, 1982, appellant received notice that the amount due as rental was \$3,158. On September 27, 1982, appellant submitted a check on which this amount was entered in figures. However, appellant had written "Three Thousand One Hundred Fifty" on the check. Citing section 3-118 of the Uniform Commercial Code (UCC), BLM ruled that, in the event of a discrepancy between the written and figure amounts of a check, the printed or written amount governs. Accordingly, appellant's rental was found to be deficient and her offer was rejected.

On appeal, appellant contends that the words on her check are ambiguous because they are not followed by a straight line or "and no/100" as is customary. Appellant refers to Guthrie v. National Homes Corp., 394 S.W.2d 494 (Tex. 1965).

In the event of a discrepancy between the written and figure amounts entered on the face of a check, the printed or written amount governs the amount for which it is a valid order to pay. Dawson v. Andrus, 612 F.2d 1280 (10th Cir. 1980). If the words are ambiguous, the figures control. These results follow from section 3-118 of the UCC which has become the applicable state law in each of the United States, excepting Louisiana. 5 Anderson, Uniform Commercial Code (3d ed. 1984).

Guthrie, supra, involved a note in which the maker promised to pay "Five thousand Eighty and 00/100 Dollars." The figure amount on the note was \$5,780. It was held that the written words were unambiguous and controlled over the \$5,780 figure in the note. In Wall v. East Texas Teachers Credit Union, 526 S.W.2d 148 (Tex. Civ. App. 1975), rev'd on other grounds, 533 S.W.2d 918 (Tex. 1975), a promissory note indicated the figure amount "\$19,896.01." The amount in words read: "Nineteen hundred eight hundred ninety-six and 01/100 Dollars." The court defined ambiguity as "denoting uncertainty of meaning; wanting in clearness or definiteness; or of doubtful import." Id. at 150. The court found that the words, within the context of the note, were grammatically incorrect, unorthodox, uncertain, and therefore ambiguous, with the result that the figure amount governed.

In the case before us the written words are not ambiguous. The written amount is "Three Thousand One Hundred Fifty Dollars." BLM's accounting receipt shows that appellant's check was negotiated for this amount.

[1] The applicable regulation, 43 CFR 3112.4-1, states in part:

(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. * * * 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.

The correct amount of rental must be received by BLM within the time required or automatic disqualification results. See Derelys W. Delano, 69 IBLA 360, 361 (1983); Milton Knoll, 38 IBLA 319, 325-26 (1978). In Knoll, the applicant also tendered a check for payment of less than the required amount. Under the rule enunciated by Knoll, however small the deficiency, compliance with 43 CFR 3112.4-1, 1/ mandates full payment, not partial payment. In Knoll, the amount of the deficiency was three cents (\$0.03). Despite this fact, the Board held the failure to comply with the rental deficiency provision of the Departmental regulation was fatal to the application. Under the circumstances of this appeal, therefore, prior Departmental decisions clearly support BLM's rejection of appellant's offer.

1/ Following amendment of the oil and gas leasing regulations, effective Aug. 22, 1983, this regulation now appears at 43 CFR 3112.6-1. 48 FR 33640, 33680 (July 22, 1983).

Accordingly, 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.

Franklin D. Arness
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

R. W. Mullen
Administrative Judge

