

JUDITH A. LAWTON

IBLA 84-134

Decided April 24, 1984

Appeal from a decision by the Eastern States Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer ES 24113.

Affirmed.

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

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

APPEARANCES: Paul H. Landis, father of appellant, for appellant Judith A. Lawton.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Appellant has appealed from a decision of the Eastern States Office, Bureau of Land Management (BLM), dated October 5, 1983, rejecting appellant's oil and gas lease offer.

On January 28, 1980, appellant filed a simultaneous oil and gas drawing entry card for parcel ES-11. Subsequently, appellant's entry card was selected as the first-priority offer for this parcel. On July 22, 1980, notice of this selection was sent to appellant. This notice also informed appellant that the first year's rental must be sent to the Eastern States Office and received by that Office within 30 days from the date of receipt of the notice. The notice was received at the address of appellant on July 28, 1980. The return card for the certified letter containing the notice was signed with an illegible signature, but it appears that the signature is that of Paul H. Landis (by comparison with signatures on subsequent correspondence from Landis). The box designated for the authorized agent was checked by the party signing the return receipt card.

Landis had also been selected as the first-priority offeror for another parcel in the January 1980 drawing. No first year's rental was sent for either the Lawton tract (ES 24113) or the Landis tract (ES 24130). On September 26, 1980, the Eastern States Office issued a decision rejecting the Landis offer, ES 24130, and Landis appealed from this decision. The Eastern States Office then forwarded the Landis file and the Lawton file to the Board of Land Appeals for a decision. A decision was subsequently issued by this Board affirming the Eastern States Office in the Landis appeal.

Paul H. Landis, 61 IBLA 244 (1982). This decision did not include a determination regarding the status of the Lawton offer. Nonetheless, the Eastern States Office treated the Landis decision as also being a decision regarding the Lawton offer.

Following an inquiry from Landis as to the status of the Lawton offer, the Eastern States Office retransmitted the file of the Lawton offer to this Board noting that the Landis decision did not address the offer of Judith A. Lawton and asking the Board to make a determination regarding the Lawton offer. In response, on May 11, 1983, this Board issued an order denying this request on the grounds that the Eastern States Office had issued no decision rejecting the Lawton offer and, therefore, there had never been a decision from which an appeal could be taken.

On October 5, 1983, the Eastern States Office issued a decision rejecting the Judith A. Lawton simultaneous oil and gas lease offer because the offeror had not submitted the first year's rental in a timely manner, i.e., on or before August 27, 1980. Appellant then filed an appeal from that decision. The file was again forwarded to this Board for consideration.

[1] With respect to the reason for appellant's failure to tender the first year's rental, the facts in this case are the same as the facts in Paul H. Landis, supra. Landis had failed to notice that the first year's rental was due within 30 days from the date of receipt because the requirement was stated on the back of the notice. As in that case, we here again find that the BLM rejection of the offer is proper. The regulation in effect at the time of the issuance of the notice clearly required that the first year's rental be submitted within 30 days from the date of receipt of the notice. ^{1/} As in Landis, supra, the rights of the second-priority offeror automatically intervened when the payment was not received within the required period.

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.

R. W. Mullen
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Edward W. Stuebing
Administrative Judge

^{1/} The applicable provisions in effect at the time were found at 43 CFR 3112.4-1. The regulations were subsequently amended and the comparable language can now be found at 43 CFR 3112.6-1(a). Both provide that the first year's rental must be filed in the proper BLM office within 30 days from the date of receipt of the notice.

