



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Van Straten v Ember Resources Inc., 2024 ABLPRT 903387

Date: 2024-07-19

File No: RC2019.1753

Order No.: LPRT903387/2024

Municipality: County of Stettler No. 6

In the matter of a proceeding commenced under section 36 of the *Surface Rights Act*, RSA 2000, c S-24 (the “*Act*”)

And in the matter of land in the Province of Alberta within the:

SE 1/4-34-37-21-W4M as described in Certificate of Title No. 082 242 264 +3 (the “Land”), particularly the area granted for Alberta Energy Regulator Licence No. 0363244 (the “Licence”), collectively (the “Site”).

Between:

Ember Resources Inc.
and
Trident Exploration (Alberta) Corp.,

Operators,

- and -

Bernard Lawrence Van Straten,
Cheryl Ann Van Straten
and
Robert Lee Van Straten,

Applicants.

Before: William Johnston (“the Panel”)

Appearances by written submissions:

For the Applicants: Bernard, Cheryl and Robert Van Straten

For the Operators: None

**DIRECTION TO PAY PURSUANT TO
SECTION 36(6) OF THE ACT**

The Tribunal directs the Minister to pay out of the General Revenue Fund the sum of EIGHT HUNDRED THIRTY-TWO and 88/100 DOLLARS (\$832.88) (the “Compensation”) jointly to Bernard Lawrence Van Straten, Cheryl Ann Van Straten and Robert Lee Van Straten of Erskine in the Province of Alberta for compensation that became due in the year 2019.

DECISION AND REASONS

[1] The Applicants filed an application dated September 30, 2019, and an additional application on September 22, 2020, making the same request, under section 36 of the *Act* (the Application), seeking recovery of unpaid compensation due under a surface lease agreement, consent of occupant agreement, or Compensation Order for the above Site (the “Right-of-Entry Instrument”). The Applicants claim \$4,000.00 annually. The Applicants advised on April 20, 2020, that the sum of \$3,167.12 was received from Ember Resources Inc. The total amount of \$832.88 is outstanding under the Application for 2019.

ISSUES

1. Who are the Operators for the purpose of section 36 of the *Act*?
2. Is there money past due and unpaid by the Operators to the Applicants under a Right of Entry Instrument?
3. Should the Tribunal direct the Minister to pay the Applicants any of the money past due under section 36(6) of the *Act*?
4. Should the Tribunal suspend and terminate the Operators’ rights?

DECISION

1. For the purposes of section 36 of the *Act*, the Operators are Ember Resources Inc. and Trident Exploration (Alberta) Corp.
2. The written evidence proves compensation in the amount of \$832.88 is payable to the Applicants by the Operators jointly.
3. Without further notice, the Tribunal directs the Minister to pay the Applicants Compensation in the amount of \$832.88 from the General Revenue Fund.
4. The decision to suspend or terminate the Operators’ rights is reserved.

ANALYSIS

1. Who are the operators for the purpose of section 36 of the *Act*?

[2] The Tribunal gave notice pursuant to s. 36(4) to Ember Resources Inc. and Trident Exploration (Alberta) Corp., and the Panel is satisfied that the demand for payment and notice meets the requirements of the *Act* pursuant to s. 36(4) and the Interpretation of Section 36(4) *Surface Rights Act* Guideline, ABSRB 2020-1.

[3] Section 36(1) and (2) expands the definition of *operator* so that it has a broader meaning than in the rest of the *Act*.

[4] Under section 36(1)(c), the holder of a licence issued by the AER and its successors is an Operator. The Licence for the Site is in the name of Trident Exploration (Alberta) Corp. as of October 10, 2018; therefore, the Panel finds this party to be an Operator under section 36(1)(c) for the year 2019. The Licence for the Site was transferred to Ember Resources Inc. on December 30, 2019, making Ember Resources Inc. a successor to Trident Exploration (Alberta) Corp. and, therefore, an Operator.

[5] Under s. 36(1)(d) working interest participants and successors are Operators. The Panel confirms that Ember Resources Inc. is an Operator under section 36(1)(d) for the year 2019 because the AER Well Summary Report dated May 15, 2024, for the Licence, shows it was a working interest participant on the Site as of December 30, 2019.

2. Is there money past due and unpaid by the Operators to the Applicants under a Right-of-Entry Instrument?

[6] The Certificate of Title confirms the Applicants are the owners; therefore, the Panel finds the Applicants are entitled to receive the money. The Applicants provided evidence of a Right-of-Entry Instrument, and the compensation is supported by the Application and supporting documentation. The Applicants declared in writing that the Compensation has not been paid for the year claimed.

[7] The Panel is satisfied that compensation is owed to the Applicants for annual payment due under the Right-of-Entry Instrument. This amount is calculated as one payment of \$832.88 after deducting the payment made by Ember Resources Inc. due for 2019. The Site is not reclaimed, and the Right-of-Entry Instrument remains in effect. The Panel finds that at the time the Compensation became due, the Operators are jointly liable for the Compensation due to the Applicants.

3. Should the Tribunal direct the Minister to pay the Applicants any of the money past due from the General Revenue Fund under section 36(6) of the *Act*?

[8] *Bateman v Alberta (Surface Rights Board)*, 2023 ABKB 640 specified that under s. 36 of the *Act*, the Applicants need only prove there is a Right of Entry Instrument and there is default on the payment, therefore, the Panel directs the Minister to pay the full amount owing. The Panel determined there is a right of entry instrument and money is owing. Accordingly, the Minister is directed to pay the Applicant \$832.88 from the General Revenue Fund.

4. Should the Tribunal suspend and terminate the Operator's rights?

[9] The Tribunal can suspend and terminate an operator's rights to access the Site when appropriate. The Panel reserves its decision to suspend and terminate at this time to avoid delay in payment to the Applicant. However, if either of the Operators attempts to access the Site but still does not pay compensation, the Tribunal may issue a suspension/termination order.

Dated at the Town of Olds in the Province of Alberta this 19 day of July, 2024.

LAND AND PROPERTY RIGHTS TRIBUNAL



William Johnston, Member