



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Dietz Farms Ltd. v Rally Canada Resources Ltd., 2025 ABLPRT 904546

Date: 2025-07-23

File No: RC2024.0918

Order No: LPRT904546/2025

Municipality: Flagstaff County

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:

SW 23-41-14-W4M as described in Certificate of Title No. 222 134 034 +1 (the “Land”), particularly the area granted for a well site in L.S. 5 by Alberta Energy Regulator Licence No. 0148609 (the “Licence”), collectively (the “Site”).

Between:

Rally Canada Resources Ltd.,

Operator,

- and -

Dietz Farms Ltd.,

Applicant.

Before: Ijeoma Ofodile (“the Panel”)

Appearances by written submissions:

For the Applicant: Patricia Walker, My Landman Group Inc.

For the Operator: Renata Bortolotto, Rally Canada Resources Ltd.

**DIRECTION TO PAY PURSUANT TO
SECTION 36 OF THE ACT**

The Tribunal directs the Minister to pay out of the General Revenue Fund the total sum of ELEVEN THOUSAND TWO HUNDRED TWENTY-SEVEN and 50/100 DOLLARS (\$11,227.50) to Dietz Farms Ltd. in the Province of Alberta comprised of compensation

that became due in the years 2021, 2022, 2023, 2024 and 2025 (the “Compensation”) and costs awarded in this order.

DECISION AND REASONS

[1] The Applicant filed an application dated July 11, 2024, (the “Application”) under section 36 of the *Act* seeking recovery of unpaid compensation due under a surface lease agreement for the above Site (the “Right-of-Entry Instrument”) dated April 8th, 1991. The Applicant claims \$1,694.00 annually as back rent for the years 2021, 2022, 2023, 2024. The Applicant also requests costs in the amount of \$330.75, related to this proceeding.

[2] In a second Application submitted on April 14, 2025, the Applicants requested compensation for the year 2025. Therefore, the Applicant claims \$1,694.00 annually as back rent for the years 2021, 2022, 2023, 2024 and \$4,294.00 as full rent owing for 2025 for a total amount of \$11,070.00 under the Application.

[3] The Applicant provided an April 19, 2024, Minutes of Settlement between the Dietz Farms Ltd. and Rally Canada Resources Ltd. which was effective April 17, 2024 (“Minutes of Settlement”). Schedule A of the Minutes of Settlement include the subject lease and shows an increase in compensation from \$2,600.00 to \$4,294.00; an increase of \$1,694.00 effective October 7, 2021. The back rent is shown as \$6,776.00.

[4] The Minutes of Settlement further notes that Rally agreed to resolve the back rent quantum and payment of the back rent quantum by offering to pay \$100,000.00 payable via two \$50,000 installment payments.

[5] The Panel acknowledges the following previous Tribunal Decisions/Orders as follows:

Decision 2021/0985 Demand for Payment \$5,200.00 for the years 2019 and 2020.

Order No. LPRT0369/2021 Direction to Pay \$5,200.00 for the years 2019 and 2020

Order No. LPRT900383/2022 Direction to Pay \$866.68 for the year 2021.

ISSUES

1. Who is an Operator for the purpose of section 36 of the *Act*?
2. Is there money past due and unpaid by the Operator to the Applicant under a Right of Entry Instrument?
3. Should the Tribunal direct the Minister to pay the Applicant any of the money past due under section 36 of the *Act*?
4. Should the Tribunal suspend and terminate the Operator’s rights?
5. Should the Tribunal award costs under section 39 of the *Act*?
 - a. If costs are awarded, should the Tribunal direct the Minister to pay those costs to Applicant without further process?

DECISION

1. For the purposes of section 36 of the *Act*, the Operator is Rally Canada Resources Ltd. (“Rally”).
2. The written evidence proves compensation in the amount of \$11,070.00 is payable to the Applicant by the Operator.
3. Without further notice, the Tribunal directs the Minister to pay the Applicant Compensation in the amount of \$11,070.00 from the General Revenue Fund.
4. The decision to suspend or terminate the Operator’s rights is reserved.
5. The Operator shall pay costs to the Applicant in the sum of \$157.50, including GST.
 - a. The Tribunal directs the Minister to pay costs in the amount of \$157.50, including GST without further process.

ANALYSIS

1. Who is an Operator for the purpose of section 36 of the *Act*?

[6] The Tribunal gave notice pursuant to s. 36(4) to Rally 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.

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

Section 36(1)(c) – Alberta Energy Regulator (“AER”) Licence Holder

[8] 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 Rally as of June 1, 2015; therefore, the Panel finds this party is an Operator under section 36(1)(c) for the years 2021, 2022, 2023, 2024 and 2025.

Section 36(1)(d) – Working Interest Participants

[9] Under s. 36(1)(d) working interest participants and successors are Operators. The Panel finds that Rally is an Operator under section 36(1)(d) for the years 2021, 2022, 2023, 2024 and 2025, because the AER Well Summary Reports dated March 26, 2025, for the Licence shows it was a working interest participant on the Site as of August 16, 2018.

Section 36(1)(e) – Holder of a surface lease or right of entry order

[10] Under section 36(1)(e) the holder of the surface lease or right of entry order for the Site and its successors, is an Operator. The Panel finds Rally is an Operator for the purpose of section 36(1)(e) on the due dates in 2021, 2022, 2023, 2024 and 2025 because it is the Operator named on the registration on the Certificate of Title.

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

[11] The current Certificate of Title confirms the Applicant is the owner of the Land and was the owner when the rentals became due, therefore, the Panel finds the Applicant is entitled to receive the money. The Applicant provided evidence of a Right-of-Entry Instrument, and the compensation is supported by the Application and supporting documentation. The Applicant declared in writing that the Compensation has not been paid for the years claimed.

[12] In an April 28, 2025, email to the Tribunal, Rally attached copies of “cashed rental cheques” that were generated from its system as per the April 8, 1991, lease all payable to Dietz Farms Ltd.

Cheque No. 000113402 in the amount of \$2,443.32 issued April 15, 2021 (for the 2021 rental)

Cheque No. 0000113593 in the amount of \$2,976.32 issued May 15, 2021 (for the 2021 rental)

Cheque No. 0000113828 in the amount of \$2,976.65 issued June 15, 2021 (for the 2021 rental)

Cheque No. 0000114052 in the amount of \$2,501.65 issued July 15, 2021 (for the 2021 rental)

Cheque No. 0000115923 in the amount of \$10,700.00 issued April 15, 2022 (for the 2022 Rental \$2,600.00)

Cheque No. 0000117963 in the amount of \$10,700.00 issued April 15, 2022 (for the 2023 Rental \$2,600.00)

Cheque No. 0000119841 in the amount of \$10,700.00 issued April 15, 2024 (for the 2024 Rental \$2,600.00)

[13] In the same email, Rally acknowledged an April 19, 2024, Settlement Agreement shows \$1,694.00 as the back rental increase for each year. Rally also noted that some of its wells have been temporarily suspended due to a pipeline issue and has reallocated money from the surface rentals to pay for replacing a section of the pipeline. Once the wells are back in production, Rally indicated its plan is to catch up on unpaid surface rentals.

[14] The Panel places great weight on the April 19, 2024, Minutes of Settlement and Schedule A between the Dietz Farms Ltd. and Rally Canada Resources Ltd., which was effective April 17, 2024, because it was dated after the earlier LPRT Decisions and Orders, as noted in Paragraph 3 of this Decision, and the “cashed rental cheques” provided in evidence by Rally Canada Resources Ltd. The Panel finds that Schedule A of the Minutes of Settlement refers to the subject lease and shows an increase in compensation from \$2,600.00 to \$4,294.00; an increase of \$1,694.00 effective April 8, 2021. The back rent is shown as \$6,776.00. The Panel is persuaded that as of April 19, 2024, Dietz Farms Ltd. and Rally Canada Resources Ltd. agreed that the back rent of \$6,776.00 was due and payable for the years 2021, 2022, 2023, 2024 and 2025.

[15] The Panel is satisfied that compensation is owed to the Applicant for annual payment due under the Right-of-Entry Instrument. This amount is calculated as five payments of \$1,694.00, being the outstanding amount being owed for the years 2021, 2022, 2023, 2024 and \$4,294.00 as full rent owing for 2025 for a total amount of \$11,070.00 under the Application.

[16] 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 Operator is liable for the Compensation due to the Applicant.

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

[17] *Bateman v Alberta (Surface Rights Board)*, 2023 ABKB 640 specified that under s. 36 of the *Act*, the Applicant 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 \$11,070.00 from the General Revenue Fund.

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

[18] The decision to suspend or terminate the Operator's rights is reserved.

5. Should the Tribunal award costs under section 39 of the *Act*?

[19] The Applicant filed a statement for costs in the sum of \$330.75 including GST. Section 39(1) of the *Act* puts costs of and incidental to proceedings under the *Act* in the discretion of the Tribunal. Rule 31(2) the *Surface Rights Board Rules* provides guidance as to the factors the Tribunal may consider when awarding costs.

[20] In *Bear Canyon Farms Holdings Ltd v Apex Energy (Canada) Inc*, 2018 ABSRB 64, ("*Bear Canyon*" the Tribunal held:

[17] A factor weighing towards a lower costs award is the low complexity of the proceedings. Board administration provides a reasonably short application form (2 pages) for section 36 applications and drafts the required statutory declaration for applicants. The vast majority of the information requested on the form, such as Applicant's name, land description, rate of annual compensation, and year(s) claimed for unpaid compensation are generally within the knowledge of applicants. The proceedings are entirely by writing and are usually unopposed by the Operator. In the majority of these kinds of straightforward section 36 applications, applicants are able to file all paperwork by themselves and do so correctly.

[18] Board administration performs all necessary searches, including searches for the responsible operator and its insolvency status; Board administration prepares a statutory declaration which the Applicant is requested to swear before commissioner of oaths; and the Board convenes a Panel to make a determination, generally without an in-person hearing."...

[20] ...in the opinion of the [p]anel, an experienced professional should usually be able to file a section 36 application within one hour or less.

[21] This Panel applies the reasoning in *Bear Canyon* and awards costs for one hour of professional assistance at a rate of \$150.00 per hour plus 5 percent GST \$7.50, for a total cost award of \$157.50.

[22] Costs in the amount of \$157.50 are payable by the Operator to the Applicant.

COSTS ORDER

[23] IT IS ORDERED that costs in the amount of ONE HUNDRED FIFTY-SEVEN and 50/100 DOLLARS (\$157.50) are payable by the Operator to the Applicant.

5a. If costs are awarded, should the Tribunal direct the Minister to pay those costs to Applicant without further process?

[24] The claim for costs is part of the application process and operators have the ability to review the entire Tribunal file which includes the costs claim. Directing the Minister to pay the costs without further process results in efficiency and expeditious payment to the Applicant without incurring further costs.

[25] The Direction to Pay for costs will issue immediately.

Dated at the City of Calgary, in the Province of Alberta, this 23rd day of July, 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL

Ijeoma Ofodile Member