

MEDIATION AND ARBITRATION BOARD
Under the Petroleum and Natural Gas Act
114, 10142 101 Avenue
Fort St. John, BC V1J 2B3

Date: May 7, 2001

File No. 1222

Board Order No. 337ARR

BEFORE THE ARBITRATOR:

IN THE MATTER OF THE PETROLEUM
AND NATURAL GAS ACT BEING CHAPTER 361
OF THE REVISED STATUTES OF BRITISH
COLUMBIA AND AMENDMENTS THERETO:
(THE ACT)

AND IN THE MATTER OF A PORTION OF THE
NORTHWEST $\frac{1}{4}$ OF SECTION TWENTY-FIVE,
TOWNSHIP EIGHTY-FOUR, RANGE SEVENTEEN, WEST
OF THE SIXTH MERIDIAN, PEACE RIVER DISTRICT,
(NORTHWEST $\frac{1}{4}$ 25-84-17 W6M)
(THE LANDS)

BETWEEN:

FRANK SCHLICHTING
BOX 199
CECIL LAKE, BC
V0C 1G0
(THE APPLICANT)

AND:

COASTAL RESOURCES
1400 520 5TH AVENUE, SW
CALGARY, AB
T2P 3R7
(THE RESPONDENT)

RENT REVIEW ARBITRATION ORDER

BACKGROUND

The surface rights owner, Frank Schlichting, applied to the Mediation and Arbitration Board on the 16th of January 2001 for Arbitration to settle compensation pursuant to Section 12 of the Petroleum and Natural Gas Act.

The Applicant had sent the 60 day notice pursuant to Section 11 of the Petroleum and Natural Gas Act, requesting renegotiating of the rental conditions on 25 April 2000.

As the two parties were unable to reach a satisfactory annual payment, an Arbitration Hearing was scheduled for 29 March 2001.

The members of the Arbitration Panel, Mavis Nelson and Ivor Miller inspected the site on 28 May 2001. They observed that the well site and access road is a shut in gas well with no connecting flow lines, with a cattle guard crossing at the main road entrance.

An Arbitration Hearing was held on 29 March 2001 in the Boardroom of Execuplace Business Centre located at 10142 101st Avenue, Fort St. John BC. Present for the Mediation and Arbitration Board was Ivor Miller and Mavis Nelson. The Applicant, Mr. Frank Schlichting represented himself. Tom Hourahine of Longstaff Land Surveying Ltd represented the Respondent.

POSITION OF THE PARTIES

Applicant

The Applicant presented exhibits to show the correspondence between Coastal Energy and himself beginning in 1999 and noted the difficulty of maintaining correspondence with one person. He pointed out that in a letter from the Respondent dated September 7, 1999 the company acknowledged his "notice of your right to request an review". He presented evidence of the increase of the value of the land from his purchase date in 1997 to the present date. He stated he is clearing the land for farming having cut re-growth trees in 1998 and improved the land to a cultivated state in the fall of 2000 so as to be able to seed a crop in the spring of 2001.

The Applicant noted that the area between the north property line and the access road is less than 15 metres in width, making it very difficult to maneuver farm equipment. Ditching and drainage of the access road are also a concern when trying to bring this strip of land under cultivation.

The Applicant presented comparables of leases on other property owned by himself as well as leases of neighbors in his area.

The Applicant is seeking annual rental in the amount of \$ 6,540.00.

Respondent

Longstaff Land Surveying Ltd. presented Coastal Resources letters detailing the correspondence with the Applicant and a copy of the Registered Survey Plan # 25895. The Respondent's last offer for annual rental was \$ 4,500.00 retroactive to October 1999. This was based on a per acre rate comparable with other leases in the area and in consultation with a senior land agent in Longstaff Land Surveying Ltd. office. The well is shut-in and has never been brought into production. The Respondent obtained ownership of this lease in 1996.

DECISION

The Arbitration Panel, having heard all the evidence presented at the hearing, and the arguments made in support makes the observations;

1. The land was purchased by the Applicant in 1997, at which time the annual rental was \$3,300.00. The applicant began clearing the land in 1998 and therefore the use of the land has changed,
2. The lease rental review became effective in 1999 and the value of the land has increased since the last review,
3. By bringing the approximately 2 acre strip along the north property line into cultivation it continues to add to the nuisance and alienation created by this lease,
4. The comparable lease values could not clearly be determined to be of the same soil quality, use or production.

IT IS HEREBY ORDERED THAT:

1. Pursuant to Section 12 (2) of the *Petroleum and Natural Gas* Act, the rental provisions of the surface lease signed October 20, 1979, paid by the Respondent to the Applicant are varied from \$ 3,300.00 per annum to \$ 5,582.00 per annum. The varied rental provisions are effective from October 20, 1999 and shall be due and payable on the 20th October of each year until agreement of the parties or further order of this Board.
2. The payment of the retroactive increase of \$ 11,164.00 is due and payable as of the date of this order, less any annual payments the Respondent has made to the Applicant pursuant to the existing lease agreement.
3. The Respondent shall within 60 days of this order, provide an accounting to the Board of the payments actually made to the Applicant for the payments due on October 20, 1999 and 2000 indicating the amount due and owing to the Applicant and will pay the balance due and owing within that time period.
4. The Respondent will provide to the Applicant and the Mediation and Arbitration Board a copy of all assignments of ownership of the surface lease agreement from the original lessor to the current corporate holder of the surface lease agreement, to clarify the current ownership of this well site.
5. Nothing in this Order varies expressly or by implication any of the other terms of the existing lease between Frank Schlichting and Coastal Resources. The original signed October 20, 1979.
6. Nothing in this order is or operates as consent, permit or authorization that by enactment a person is required to obtain in addition to this order.

Dated at the City of Fort St. John, British Columbia, this 2nd day of May 2001.

MEDIATION AND ARBITRATION BOARD
UNDER THE
PETROLEUM AND NATURAL GAS ACT

Ivor Miller, Member

Mavis Nelson, Member