

**THE SURFACE RIGHTS BOARD OF MANITOBA
BOARD ORDER
Under The Surface Rights Act, C.C.S.M. c. S235**

File No: 01-2012
Town Municipal Office

Order No:01-2012
Virden, Manitoba

October 18, 2012

BEFORE:

Margaret Hodgson, Presiding Member
Clare Moster, Deputy Presiding Member
Claude Tolton, Board Member
Russell Newton, Board Member
Barbara Miskimmin, Board Administrator

BETWEEN:

John Ronald Coleman & Merle Coleman

(Applicants)

- AND -

4478429 Manitoba Ltd.

(Respondent)

CONCERNING:

LSD 4A, Section 24, Township 10, Range 26, West of the Principal Meridian in Manitoba
(Hereinafter referred to as "the well site")

PURPOSE OF HEARING:

To hear and receive evidence regarding an application received from the Applicants, for payment of compensation.

COMPENSATION PAYMENT ORDER

BACKGROUND:

The Applicants applied on April 25, 2012 under section 21(1) of The Surface Rights Act for an order for payment of outstanding lease payments that have been in arrears since June 17th, 2011.

Mr. Ken Gardiner, President of 4478429 Manitoba Ltd., claimed no responsibility for the payment of outstanding surface lease payments, claiming that the well had been sold and the lease payments were the responsibility of the new owners.

ISSUES:

1. Is the Respondent the licensed operator of the well?
2. Are the Applicants entitled to receive the annual surface lease payments?
3. Are the Applicants entitled to interest?
4. Are costs to be considered?

APPEARANCES:

For the Applicants:

- Ron Coleman and Merle Coleman, Owners
- Dreda Braybrook, Daughter of the Applicants.

For the Respondent:

- Ken Gardiner, President of 4478429 Manitoba Ltd.

For Innovation, Energy and Mines:

- Jennifer Able (P.Eng.), Chief Petroleum Engineer, Petroleum Branch

EXHIBITS:

Board Exhibits:

- #1 Report dated August 20, 2012 from Keith Lowdon, Director, Petroleum Branch, Manitoba Innovation, Energy and Mines, Presented by Jennifer Able, (affirmed) Engineer, Petroleum Branch.

Applicant Exhibits:

- #2 Written report presented verbally by Dreda Braybrook, containing the following:
- Original Lease dated June 17th, 1997
 - Lease amendment dated June 26th, 2010
 - Letters from Pat Fraser, Meighen Haddad LLP, dated October 13,2010 and Nov 3, 2010

Respondent Exhibits:

- #3 Letter from Meighen Haddad LLP, dated December 1, 2010 to 4478429 Manitoba Ltd. presented by Ken Gardiner

DECISION:

Upon hearing the application of each of the parties, the evidence, and the submissions on the 25th day of September 2012; decision being reserved until today's date:

It is the Order of this Board That:

1. 4478429 Manitoba Ltd. is the licensed operator of the well on the well site and as such is responsible to pay John Ronald Coleman and Merle Alexandra Coleman the sum of \$4,800.00 plus interest as stated in the terms of the surface lease amendment dated June 26, 2010 until paid in full for Right of Entry.
2. The compensation payments for Right of Entry shall continue until such time as 4478429 Manitoba Ltd. has completed the transfer of well license 2347 and/or has carried out the Abandonment and Rehabilitation procedures under The Oil and Gas Act as well as restoration of the well site pursuant to The Surface Rights Act.
3. The Board makes no award for costs.

REASONS FOR DECISION

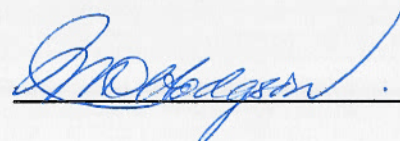
1. Report prepared by Keith Lowdon at the request of the Board, and presented by Jennifer Able at the hearing on September 25th, 2012 indicated that 4478429 Manitoba Ltd., is the Licensed Operator under The Oil and Gas Act of the well located on the well site.

Ms. Abel provided updated information to the report regarding the current well status. The report indicated that a pump jack was currently the only equipment located on the site, but she reported that it had been removed. Mr. Gardiner, when questioned, stated he had removed the pump jack.

It is acknowledged that Mr. Ken Gardiner believed that the steps he had taken to sell the well were completed, however there are aspects of the well license transfer that are still outstanding. Mr. Gardiner stated that he was not aware of that.

2. After reviewing the documents presented in evidence at the hearing in Virden on September 25th, 2012, we have determined that the surface lease dated June 17, 1997 and the surface lease amendment dated July 26, 2010 between John Ronald Coleman and Merle Alexandra Coleman (Applicants) and 4478429 Manitoba Ltd. (Respondent) are still valid and that there are outstanding rental and interest payments.
3. Therefore, pursuant to The Surface Rights Act, the licensed operator of a well must compensate the owner for Right of Entry until such time as transfer of well license has been completed and/or has fulfilled the Abandonment and Rehabilitation requirements of The Oil and Gas Act as well as restoration of the site pursuant to The Surface Rights Act.

Signed this -18th-day of October, 2012

 Presiding Member