

IN THE WARDEN'S COURT OF QUEENSLAND
HELD AT BRISBANE

IN THE MATTER OF: **DETERMINATION OF COMPENSATION PURSUANT TO SECTION 281 OF THE MINERAL RESOURCES ACT 1989 IN RESPECT OF MINING LEASE NUMBER 5552 IN THE MOUNT ISA DISTRICT**

BEFORE: **MR F W WINDRIDGE**
 MINING WARDEN

APPLICANT: **STEPHEN ANTHONY HOGAN**

RESPONDENT: **DEPARTMENT OF NATURAL RESOURCES**

CATCHWORDS: **MINING – COMPENSATION – ACCESS – TIMBER RESERVE**

Mineral Resources Act 1989 s. 281

DETERMINATION:

Stephen Anthony HOGAN (hereinafter called the miner) seeks the renewal of a mining lease Number 5552. An application for renewal was lodged at the office of the Registrar at Mount Isa on 30 September 1996. The miner seeks a renewal term of five (5) years commencing from 1st October 1996. In effect, three years and 5 months of that renewed term have already passed.

A renewal of a lease will not be granted until the issue of compensation has been settled. Part of the access road to the lease passes through a timber Reserve and the miner and the Department of Natural Resources have not settled on compensation. That being the case, the Court has the jurisdiction under Section 281 of the *Mineral Resources Act 1989* (the MRA) to determine compensation, and the compensation so determined shall be binding on the parties and their assigns (Section 281(6)).

This matter has been before the Court on a number of occasions, the latest being the 21st March 2000. Neither party appeared on the final date. However, the Department of Natural Resources indicated in writing that it would not object to the continued access. It therefore remains for the Court to settle the quantum of the award.

An inspection was carried out on Monday 20th March 2000.

The lease is located in an area known as Mica Creek to the north and west of Mount Isa. It is part of a popular specimen hunting area for collectors and quite a number of well-worn vehicle tracks traverse the area.

The lease was originally granted for the purpose of mining for tantalum. However, due to low prices, no mining has been carried out for a number of years. Currently the area is subject to being the repository of numerous items of rubbish, and badly needs to be tidied up.

As I understand the plan supplied to the Court by the Registrar, the access road crosses the bottom right hand corner of Timber Reserve 265. In effect, only a short distance is involved. The Timber Reserve was proclaimed on 7th August 1986. The rights to the minerals, petroleum and rights to search for and work any mines were reserved to the Crown. The reserve itself is approximately 6570 hectares in area. The Campbell family trust holds a lease over the reserve for grazing purposes.

Having inspected the area and bearing in mind that the access road crosses only the corner portion of the bottom of the reserve, I am of the opinion that a nominal amount of compensation is justified in all the circumstances. There is no valuation evidence to consider, and it is doubtful if the expense of providing such evidence is justified. In *Zimmerebner*, the Land Court referred to *Mitchell* and held; "In *Mitchell* the Court concluded that the same reasoning can be applied to Section 281(3) of the MRA, but it does not prescribe a method of valuation. As long as the amount of compensation finally determined accounts for each of the entitlements referred to in the subsection, it is not necessary quantify an amount in respect of each of the matters."

In this instance, the circumstances are different in that no lease area is involved, only the access road.

I therefore determine that the amount of compensation to be paid to the Department of Natural Resources shall be the sum of \$10.00 per annum for the term of the five-year lease renewal. This award encompasses any award that may be payable under Section 281(4), except Section 281(4)(e). There is no apparent reason or cause to increase the premium under Section 281(4)(e) above 10%, and I add 10% to the award as determined.

Compensation is therefore assessed at \$11.00 per annum.

There were no submissions in relation to the times, terms or conditions of payment. In view of the quantum and the term of the renewal sought, I order that the sum of \$55.00 compensation be paid to the Department of Natural Resources within 60 days of notification of the renewal by the Registrar.

Dated at Brisbane this 5th day of April 2000.

F W WINDRIDGE
MINING WARDEN

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