

LAND COURT OF QUEENSLAND

CITATION: *Re Wilkins and Mudge* [2009] QLC 0075

PARTIES: **In the matter of Application for Mining Lease No 3902 – Determination of compensation payable by Maxwell John Wilkins, Robert James Wilkins and Russell Ross Wilkins to John D Mudge.**

FILE NO: MLC00010/2009

PROCEEDING: Application for determination of compensation

DELIVERED ON: 29 May 2009

DELIVERED AT: Brisbane

HEARD DATE: Heard on the Papers

MEMBER: Mr BR O'Connor, Judicial Registrar

ORDER/S: **1. Compensation determined at \$110**
2. The miners pay the total compensation of \$110 to the landholder within two months from notification of the renewal of the mining lease by the Mining Registrar.

CATCHWORDS: MINING- MINING LEASE – DETERMINATION OF COMPENSATION

Mineral Resources Act 1989, s. 281

Re Wallace & Ors & Evans [2006] QLRT 93, applied

APPEARANCES: Not applicable – Heard on the Papers

Background

- [1] Maxwell John Wilkins, Robert James Wilkins and Russell Ross Wilkins (the miners) currently hold ML3902. The current term of the mining lease expired on 31 March 2008. On 22 October 2007 the miners lodged an application for a renewal of the mining lease for a term of 21 years with the Mining Registrar, Mareeba District.
- [2] This determination of compensation relates to the surface area of the mining lease and access to the surface area in relation to property held by John D Mudge (the landowner).

Court Practice Direction

- [3] On 8 January 2009 the Court sent letters to the miners and the landholder bringing the referral of this matter to the Court by the Mining Registrar to their attention, and advising them of their obligations under the relevant Court Practice Direction. Timeframes for the submission of relevant material were provided to each party. The landholder has made no submissions to the Court. The miner has submitted that there should be no compensation, at this stage as there are no present plans to conduct mining on the proposed new lease. Commencement of mining would require a change to the plan of operation.
- [4] While the Miners claim nil compensation should be awarded at this stage, some allowance must be made for the blot on the landowner's titles resulting from the existence of the mining lease.
- [5] It is not an uncommon occurrence for either of both parties in a compensation matter before the Court to fail to comply with the Practice Direction. The absence of detailed compensation evidence from both sides clearly makes the task of the Court in determining compensation difficult. In the circumstances, I adopt the analysis of the legislative provisions, compensation principles and methodology applied by Mining Referee Windridge in *Re Wallace & Ors & Evans* [2006] QLRT 93.

Determination

- [6] Taking into account all heads of compensation in subsection 3 of s.281 of the *Mineral Resources Act 1989* ("the Act") and taking into account the miners submissions, I assess compensation at \$100. Pursuant to s.281(4)(e) of the Act, I award the additional sum of \$10.00. This award would be subject to review under s.283(a) of the *Mineral Resources Act 1989* should the current plan of operations change.
- [7] Taking all relevant factors into account, I order that the miners pay the total compensation of \$110.00 to the landholder within two months from notification of the renewal of the mining lease by the Mining Registrar.

**BR O'CONNOR
JUDICIAL REGISTRAR**