

LAND COURT OF QUEENSLAND

CITATION: *Doroshenko v Mills* [2009] QLC 0093

PARTIES: **In the matter of Mining Lease No. 95613 – Determination of compensation payable by Peter John Doroshenko to Shane Mills**

FILE NO: MLC00076/2009

PROCEEDING: Application to determine compensation

DELIVERED ON: 2 July 2009
Amended 5 August 2009

DELIVERED AT: Brisbane

MEMBER: Mr BJ O'Connor, Judicial Registrar

ORDERS: **1. Compensation determined at \$330.**
2. The miner pay the total compensation of \$330 to the landholders within two months from notification of the renewal of the mining lease by the Mining Registrar.

CATCHWORDS: 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] Peter John Doroshenko, the miner, has made application for grant of Mining Lease 95613 to the Mining Registrar, Winton for an area of 5.68 ha for a term of 10 years. A Certificate of Application was issued by the Registrar on 14 November 2008.
- [2] This determination of compensation relates to access to the mining lease and the mining lease itself, both of which are located on property owned by Shane Mills (Lot 2 on SP 159840), the landowner. The area of the lease is rounded to 6 ha.
- [3] On 15 April 2009 the Court sent letters to the miner 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 Court Practice Direction. Timeframes for

the submission of relevant material were provided to each party. Both parties made submissions to the Court on compensation which I have perused in detail.

- [4] The absence of detailed compensation evidence 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

- [5] Taking into account all heads of compensation in subsection 3 of section 281 of the *Mineral Resources Act 1989* (the Act), and absent any details of the area of land required for access, and taking into account both parties submissions, I assess compensation in the minimal sum of \$5 per hectare per annum for the term of the lease, which equates to \$300. Pursuant to s.281(4)(e) of the Act, I award the additional sum of \$30.
- [6] Taking all relevant factors into account, I order that the miner pay the total compensation of \$330 to the landholder within two months from notification of the renewal of the mining lease by the Mining Registrar.

**BR O'CONNOR
JUDICIAL REGISTRAR**