



November 2024

Landowners Win Big at The Alberta Court of Kings Bench

The Alberta Court of King's Bench handed landowners a significant victory regarding surface rights recently! The decision rendered in **Bateman v. Alberta (Surface Rights Board) 2023 ABKB 640** in November of 2023 has far reaching impacts on landowners and has, in fact, resulted in the Land and Property Rights Tribunal changing its process for dealing with applications made under Section 36 of the *Alberta Surface Rights Act*. This is the section of the *Act* which allows landowners to apply to Recover Annual Compensation owed to them by an oil or gas company which has either unilaterally reduced the annual rental/compensation payment it previously agreed to pay for a surface lease, or which has defaulted on such annual payments completely.

It is critical for landowners to understand this section of the Surface Rights Act is there to protect them when energy companies cannot or will not make surface lease payments owed to them. My Landman Group Inc. has been representing landowners at the Surface Rights Board (SRB) now called the Land and Property Rights Tribunal (LPRT) for 15 years and has been very successful in having the Government of Alberta pay these landowners the annual rental amounts owed to them by delinquent oil and gas companies with leases on their lands.

One SRB decision issued for such a Recovery of Compensation application, however, was found to be totally unacceptable by our client landowner and by our company. In this decision, the SRB directed that the Government of Alberta pay the landowner, Wayne Bateman, only 50% of the annual compensation owed to him by the defunct operator, Lexin Resources Ltd. The lease itself hosted a full complement of equipment associated with a producing gas well. My Landman Group Inc. applied to the SRB on behalf of the landowner to request that it review (under Section 29 of the Surface Rights Act) this troubling decision and award the full annual rent owed. Substantive submissions were made, as requested by the SRB, to support the landowners claim that 100% of the annual compensation was owing and should be paid to the landowner by the Government of Alberta. When the SRB dismissed the application to reconsider its decision, we were left with no choice but to apply to the Court for a Judicial Review of this egregious decision.

Legal counsel was thus engaged to expand on the initial arguments made by My Landman Group Inc. This Judicial Review was held at the Court of King's Bench in March of 2023 and the judge's decision was rendered on November 14, 2023. The Judge agreed with Mr. Bateman's position and

found the SRB decision to tell the Government of Alberta to pay the landowner a reduced amount of rent was an **error in law** as well as **unreasonable**. The judge therefore quashed the SRB's decision! The LPRT was told by the judge to pay Mr. Bateman the remaining 50% of the rental owed to him as well as all the legal costs he incurred due to the need to resort to the Court for justice. It was a long battle, but often the Court's guidance is needed to correct injustices that may occur through SRB and LPRT decisions. In fact, the Court's guidance is sometimes the only thing that can correct them. If you would like a copy of the Judges decision, please contact our office.

This Court decision has had far-reaching repercussions for landowners. As a result of the judge's ruling on ***Bateman***, the LPRT has changed its application forms for Recovery of Compensation. The forms no longer ask for information about the "condition of the surface lease" as the judge confirmed in ***Bateman*** that information is not required. Also, the LPRT now references ***Bateman v. Alberta (Surface Rights Board) 2023 ABKB 640*** in all its decisions for Recovery of Compensation applications and directs the Government of Alberta to pay the full rental owed to the landowner. It makes such decisions even if there is no equipment on the surface lease, but a reclamation certificate has not yet been issued for it.

While we were waiting for almost two years for the results of the Judicial Review, the SRB/LPRT made hundreds of similar decisions denying the full amount of rent to landowners who had submitted applications for Recovery of Rental. The SRB/LPRT reduced the amount of rental it directed the Government of Alberta to pay landowners by anywhere from 25% to 75%. Please see our article ***"Recovering Surface Lease Rental Denied to You by the SRB/LPRT"*** to see how that money can be recovered by landowners.

Landowners who require further information, assistance or representation regarding the above or any other surface rights matters are welcome to contact My Landman Group Inc. via email at office @mylandman group.ca or by phone to 403-652-8293. We can help you recover any surface lease rent owed to you by an oil and gas operator AND, because of our success with the ***Bateman*** Judicial Review, any rent the Land and Property Rights Tribunal has "shorted" you for a Recovery of Compensation application.