

Before:

Metis Settlements Appeal Tribunal
Land Access Panel

Between:

Elizabeth Metis Settlement,

Applicant

-and-

**Ricks Nova Scotia Co.,
Metis Settlements Land Registry, and
Metis Settlements General Council**

Respondents

Concerning:

Recovery of Compensation
SW 20-59-2-W4M (L.S. 3)

Hearing Date:

June 14, 2017

Decision Date:

June 23, 2017

DECISION

The Hearing – parties, place and date

MSAT Panel members:

Lorne Dustow, Panel Chair
Don Cunningham, Panel Member
Cody Hodgson, Panel Member

Parties present at the hearing:

Elizabeth Metis Settlement, Applicant
 Represented by Thomas R. Owen, Owen Law
 Irene Zimmer, Chair, Elizabeth Metis Settlement
 Raymond Desjarlais, Vice Chair, Elizabeth Metis Settlement
 Mavis Desjarlais, Councillor, Elizabeth Metis Settlement
 Jeanette Calliou, Administrator, Elizabeth Metis Settlement

MSAT staff present:

Karen Mustus, Oil and Gas Officer
Amanda Wyatt, Dispute Resolution Officer

Place and date of the Hearing:

Metis Settlements Appeal Tribunal Boardroom
June 14, 2017 at 9:00 AM

[1] The Land Access Panel of the Metis Settlements Appeal Tribunal held a hearing on June 14, 2017 to consider an application under Section 121 of the *Metis Settlements Act*.

1.1 Background

[2] Elizabeth Metis Settlement, the Applicant, filed an application under s. 121 of the *Metis Settlements Act* on January 12, 2017, for the recovery of annual rental for September 8, 2002 to September 7, 2017 (\$35,159.40).

[3] The payment of arrears in annual rental is with respect to a Surface Lease Agreement dated September 8, 1997 located in L.S. 3-20 in SW 20-59-2-W4M being land held by Elizabeth Metis Settlement. The interest held is a Metis Title.

1.2 Issues

[4] The issues before the Panel are:

- 1) Is there money due and payable by the Operator to the Applicant under a surface lease?
- 2) Does the evidence satisfactorily prove non-payment?
- 3) Should the Panel direct the President of Treasury Board and Minister of Finance to pay out of the General Revenue Fund the amount of money to which the Applicant is entitled, pursuant to s. 121(2) of the *Metis Settlements Act*?

1.3 Decision

[5] 1) The amount of **\$35,159.40** is payable to the Applicant by the Operator under the Surface Lease dated September 8, 1997. The Applicant has not been paid for the following periods:

September 8, 2002 to September 7, 2003	\$2,343.96
September 8, 2003 to September 7, 2004	\$2,343.96
September 8, 2004 to September 7, 2005	\$2,343.96
September 8, 2005 to September 7, 2006	\$2,343.96
September 8, 2006 to September 7, 2007	\$2,343.96
September 8, 2007 to September 7, 2008	\$2,343.96
September 8, 2008 to September 7, 2009	\$2,343.96
September 8, 2009 to September 7, 2010	\$2,343.96
September 8, 2010 to September 7, 2011	\$2,343.96
September 8, 2011 to September 7, 2012	\$2,343.96
September 8, 2012 to September 7, 2013	\$2,343.96
September 8, 2013 to September 7, 2014	\$2,343.96
September 8, 2014 to September 7, 2015	\$2,343.96
September 8, 2015 to September 7, 2016	\$2,343.96
September 8, 2016 to September 7, 2017	\$2,343.96

2) The Panel directs the President of Treasury Branch and Minister of Finance to pay compensation of **\$35,159.40** out of the General Revenue Fund to the Applicant pursuant to s. 121(2) of the *Metis Settlements Act*.

1.4 Reasons for Decision and Findings of Fact

[6] The Metis Settlements Land Registry Land Search report shows Elizabeth Metis Settlement holds Metis Title to the SW 20-59-2-W4M.

[7] The Panel finds that the total of \$35,159.40 is owing to the Applicant from the Operator for the annual payments from September 8, 2002 to September 7, 2017.

[8] Based on the Surface Rights Agreement, dated September 8, 1997, the Panel finds Ricks Nova Scotia Co. to be the “operator”.


[9] The Panel notes that the Site has not been reclaimed and accordingly the Surface Lease remains in effect.

[10] The application was not contested by any of those who were present at the hearing.

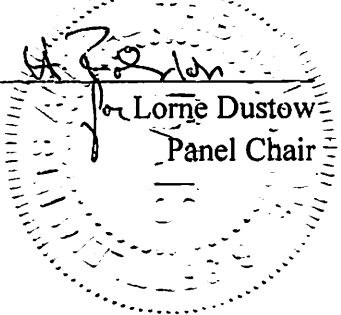
1.5 Order

[11] The Panel directs the President of Treasury Board and Minister of Finance to pay Elizabeth Metis Settlement \$35,159.40.

Dated in the City of Edmonton, in the Province
of Alberta on this 23rd day of June, 2017.



Lorne Dustow
Panel Chair





APPENDIX A

Metis Settlements Act, RSA 2000, Chapter M-14

111 In this division,

...

(h) ‘occupant’ means:

- (i) a settlement council,
- (ii) the person in actual possession of a parcel of patented land, and
- (iii) a person having a right or interest in patented land that is registered in the Metis Settlements Land Registry.

(i) “operator” means the person who authorized or permitted to engage in an authorized project.

Recovery of compensation

121(1) If an existing mineral lease holder or operator fails to pay money

- (a) under a surface lease, or
- (b) ordered to be paid by the Existing Leases Land Access Panel or the Land Access Panel,

within 30 days of the date it is due, the person entitled to receive the money may submit to the Land Access Panel evidence of the failure to pay.

(2) On receipt of satisfactory evidence of failure of the existing mineral lease holder or operator to pay, the Land Access Panel may direct the President of Treasury Board and Minister of Finance to pay out of the General Revenue Fund the amount of money to which the person is entitled.

(3) If the President of Treasury Board and Minister of Finance pays money to a person under this section, the amount paid constitutes a debt owing by the existing mineral lease holder or the operator to the Crown in right of Alberta.

(4) If a surface lease and a development agreement are combined in one document, this section applies only to that part of the document concerning the surface lease.

MSAT Order: 311