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Toronto (Ontario)
MSG 126

The Mining and Lands Commissioner Le Commissaire aux mines et aux terres

Russell Yurkow) Tuesday, the 27th day
Deputy Mining and Lands Commissioner) of August, 1991.

IN THE MATTER OF

An application under subsection 86 of the Mining Act for relief from forfeiture on terms in respect of Mining Claims P-836721, 836722 and 836724, situate in the Township of Rollo in the Porcupine Mining Division.

B E T W E E N:

BLACK GREGOR EXPLORATIONS LIMITED
Applicant

- and -

GEORGE ROSS
Respondent

- and

IN THE MATTER OF

An application under subsection 86 of the Mining Act for relief from forfeiture on terms in respect of Mining Claims P-633567 and 633570, situate in the Township of Rollo, in the Porcupine Mining Division.

B E T W E E N:

BLACK GREGOR EXPLORATIONS LTD.
Applicant

- and -

Amended
May 30, 1991
GEORGE ROSS
Respondent

- and -

IN THE MATTER OF

An application under subsection 86 of the Mining Act for relief from forfeiture on terms in respect of Mining Claims P-634398,

634399 and 634400, situate in the Township of Rollo, in the Porcupine Mining Division.

B E T W E E N:

BLACK GREGOR EXPLORATIONS LTD.

Applicant

- and

Amended
May 30, 1991

GEORGE ROSS

Respondent

- and

IN THE MATTER OF

An application under subsection 86 of the Mining Act for relief from forfeiture on terms in respect of Mining Claims P-836720 and 836723, situate in the Township of Rollo, in the Porcupine Mining Division.

B E T W E E N:

BLACK GREGOR EXPLORATIONS LIMITED

Applicant

- and -

GEORGE ROSS

Respondent

Robert J. Platt, an officer of the applicant Black Gregor Explorations Ltd. appeared on behalf of the applicant.

George Ross appeared on his own behalf.

This hearing consisted of four applications for relief from forfeiture on terms. Since the parties were common to all applications and the claims involved were related, the four applications were, by consent of both parties, heard as one hearing.

The applicant held a block of about 150 claims in Rollo and Raney Townships in the Porcupine Mining Division. Some of the claims were held with Carlson Mines

Ltd. which is a joint venture partner of the applicant. Nothing turns on this point.

Early in 1991, ten claims held by the applicant forfeited because application for lease had not be made as required. All the claims had at least 200 days assessment work recorded. The claims had not been staked at the same time and, accordingly, did not forfeit at the same time. Application was made for an extension order for some of the claims but those claims were restaked before the resulting order could be recorded.

George Ross restaked the ten claims in question in March, 1991. The applicant is asking for the return of the ten claims.

Mr. Ross argues that he is a prospector as opposed to a staker. He intends to prospect the claims and then consider entering into an option agreement. He was unable to understand why the applicant allowed the claims to forfeit. He did not refer to the established principles dealing with the return or non-return of forfeited claims.

The applicable principles are set out in Skead Holdings Ltd v. Marshall (August 10, 1990, unpublished). An information circular issued by the Commission sets these principles out. Mr. Platt, although not dwelling on it, does refer to the circular.

The basic principle is that an applicant who has 200 days assessment work should, in equity, have forfeited claims returned unless there is a compelling reason why they should not. As pointed out in Armstrong and Best v. Wahl (October 21, 1990, unpublished), I am not aware of any case where a forfeited claim has not been returned to an applicant who has 200 days recorded on it.

The applicant also meets the other tests set out in Skead. It has contiguous claims, it has spent, according to Mr. Platt's uncontested evidence, \$500,000 exploring the block and it is putting up a proposal for further exploration. It would be contrary to long standing practice not to restore the claims to the applicant.

The remaining question is that of compensation to the restaker. The applicant offered \$150 a claim plus what would amount to \$200 for added expense for a total of \$1,700. Mr. Ross agrees that this is fair compensation. This Tribunal has, recently, been considering a range of \$200 to \$300 a claim as compensation. Accordingly, it is setting compensation at \$2,000 being \$200 a claim.

The Mining and Lands Commission has circulated, within the mineral exploration industry, information on principles that will guide the return of forfeited claims. These

are available in the mining recorders' offices and to prospectors' associations. Anyone reviewing this information should conclude that there was little likelihood of the claims not being returned. Since a reasonable offer of compensation had been made to Mr. Ross, one can wonder why it was necessary to proceed to a hearing of the matter. Had the offer of compensation been a little more generous, the Tribunal would have considered ordering Mr. Ross to pay the applicant's costs in the hearing.

If the applicant files with the Tribunal, before the 28th day of September, 1991, satisfactory evidence that it has paid \$2,000 to George Ross, an order will issue restoring the disputed ten claims. In the alternative, if payment is not made before that day, the Tribunal, on its own motion or on an application by George Ross, may dismiss the applications.

Failing a signed receipt of payment by George Ross, an affidavit that a certified cheque payable to George Ross was delivered to him will be accepted as satisfactory evidence of payment.

DATED this 27th day of August, 1991.

Original signed by
R. Yurkow

R. Yurkow
Deputy Mining and Lands Commissioner