

The matter was therefore set down for preliminary hearing to determine whether in fact there had been any “negotiation(s) in good faith” so that the Tribunal’s jurisdiction could validly be enlivened.

ACCESS TO MINING LEASE*

McDowall v Reynolds ([2003] QLRT 169 (Kingham DP))

Mining lease – Validity – Boundaries – Interference with access to mining lease

Background

The parties to this application had been involved in prolonged and convoluted litigation over a period of 40 years concerning the mining lease. The original mining lease had expired and the lessee was seeking to have it renewed.

Validity of Lease

The landowner submitted that there had never been any legally valid lease granted to the miner therefore the miner’s application regarding access to the mining lease should be dismissed. In the alternative, that various statutory amendments had since invalidated the lease. It was held that a valid lease had been granted and that neither the statutory amendments nor any administrative errors had invalidated the original mining lease.

Interference with Access

The MRA empowers the mining lessee with the right to ingress and egress from the tenement by the right of way specified in the mining title. The landowner argued that the miner had no right of access as it was not included in the mining title. However, Kingham DP held that the miner did in fact possess such a right pursuant to a right of way granted in the plan of the tenement.

The miner alleged that his access to the lease area had been personally interfered with but Kingham DP held that the onus of proving this had not been established and therefore dismissed this claim. However, the landowner did construct a drain under the only road by which the mine could be accessed and therefore had in fact restricted the miner’s access to the lease.

In response to this interference, Kingham DP ordered that the land owner be prevented from restricting access and carry out such repairs to the road as were necessary to enable access by the miner.

COMPETING APPLICATIONS FOR MINING TENURES*

Re Clark & Ors ([2004] QLRT 17 (Kingham DP))

Application for mining lease and environmental authority – Existing application for exploration permit – Consent – Mining Registrar’s powers – Costs – Special circumstances

Background

These applications for a mining lease and an environmental authority were referred to the Tribunal by the Mining Registrar. However, prior to the application, Titan Minerals Pty Ltd (Titan) had lodged its own application for an exploration permit in respect of the same mineral.

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* Matt Black, BA, Research Officer to the Presiding Members, Land and Resources Tribunal. The full text of these cases can be accessed via the LRT’s website: www.lrt.qld.gov.au.