

1980

## c 184 Gas and Oil Leases Act

Ontario

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## CHAPTER 184

## Gas and Oil Leases Act

## 1. In this Act,

Interpre-  
tation

- (a) "gas or oil lease" includes any agreement, whether by way of option, lease, grant or otherwise, granting the right to operate lands for the production and removal of natural gas or oil, or both, except a grant to so operate where the amount or payment of the consideration therefor is not dependent upon the operation of such lands or upon the production of gas or oil or upon the amount of gas or oil produced, and "lessee" and "lessor" have corresponding meanings and include heirs, successors, administrators, executors, assigns and transferees of the lessee or lessor, as the case may be;
- (b) "judge" means the judge of the county or district court of the county or district in which the land is situate. R.S.O. 1970, c. 188, s. 1.

2.—(1) Where the lessor of any land or any other person having an interest in such land or any person authorized by such lessor or other person alleges, Application  
upon default

- (a) that a lessee has made default under the terms of a gas or oil lease affecting the land in that he has failed to commence to drill or has failed to complete the drilling of a well for natural gas or oil and has failed to pay rentals in lieu thereof; or
- (b) that a lessee has made default under the terms of a gas or oil lease affecting the land, other than a default specified in clause (a), and
- (i) that the default has continued for a period of two years, or
- (ii) that, the default having continued for a period of less than two years, the lessor has given notice in writing to the lessee specifying the default alleged and requiring the lessee to cure the default within thirty days of the giving of the notice, and that the lessee has not cured the default within such thirty days,

such lessor or other person may apply, upon affidavit, to a judge for an order declaring the lease void and, if the lease or any assignment or transfer thereof is registered, vacating every such registration.

Notice of default

(2) Notice of default under subclause (1) (b) (ii) shall be given to the lessee either by delivering it to him, leaving it at his residence or sending it to him by registered mail at his address as indicated in the lease, or at his last known address, but, where an assignment or transfer of the lease has been registered in the land registry office, the notice shall be given to the assignee or transferee, instead of the original lessee, in the manner prescribed in this subsection.

Appointment for inquiry into default

(3) The judge shall, in writing, appoint a time and place at which he will inquire and determine whether default has been made as alleged.

Service of notice of inquiry

(4) A notice in writing of the time and place appointed, together with a copy of the affidavit used upon the application, shall be served upon the lessee either by delivering them to him, leaving them at his residence or sending them to him by registered mail at his address as indicated in the lease, or at his last known address, or in such other manner and at such other address as the judge directs, not less than thirty days before the return of the appointment.

Idem

(5) Where an assignment or transfer of the lease has been registered in the land registry office, the appointment shall be served upon the assignee or transferee, instead of the original lessee, in the manner prescribed in subsection (4).

Idem

(6) Where an application is made by a person other than the lessor, the notice and affidavit mentioned in subsection (4) shall be served upon the lessor in the manner mentioned in that subsection. R.S.O. 1970, c. 188, s. 2.

Style of proceedings

3. The proceedings shall be entitled in the county or district court of the county or district in which the land lies, and shall be styled:

“In the matter of....., Lessor,  
and....., Lessee.”

R.S.O. 1970, c. 188, s. 3.

Where lessee fails to appear

4.—(1) If at the time and place appointed, the lessee fails to appear and it appears to the judge,

- (a) that default has been made as indicated in clause 2 (1) (a);  
or
- (b) that default has been made as indicated in clause 2 (1) (b)  
and,
  - (i) has continued for a period of two years, or
  - (ii) has not been cured within thirty days after the  
giving of notice under subclause 2 (1) (b) (ii),

as the case may be, the judge may, notwithstanding any provision in the gas or oil lease requiring the lessor to give notice to the lessee of any default, make an order declaring that the gas or oil lease is void and, if the lease or any assignment or transfer thereof is registered, vacating every such registration.

(2) If the lessee appears, the judge shall, in a summary <sup>Where</sup> ~~into~~ <sup>lessee</sup> ~~the~~ <sup>appears</sup> manner, hear the parties and their witnesses and examine the matter, and, if it appears to the judge,

- (a) that default has been made as indicated in clause 2 (1) (a);  
or
- (b) that default has been made as indicated in clause 2 (1) (b)  
and,
  - (i) has continued for a period of two years, or
  - (ii) has not been cured within thirty days after the  
giving of a notice under subclause 2 (1) (b) (ii),

as the case may be, the judge may, notwithstanding any provision in the gas or oil lease requiring the lessor to give notice to the lessee of any default, make an order declaring that the gas or oil lease is void and, if the lease or any assignment or transfer thereof is registered, vacating every such registration.

(3) Every order shall contain a description of the land <sup>Description</sup> ~~of~~ <sup>of land</sup> affected sufficient to permit registration of the order, and, where the order vacates the registration of a lease or an assignment or transfer thereof, the order shall contain a reference to the registration number of such lease, assignment or transfer. R.S.O. 1970, c. 188, s. 4.

Irregularities in procedure

**5.** The judge has the same power to amend or excuse irregularities in the proceedings as he has in an action. R.S.O. 1970, c. 188, s. 5.

Subsequent drilling, etc., not to be taken into account

**6.** The judge, upon the hearing of the application, shall not take into account,

- (a) any drilling done or sought to be done after the making of the application;
- (b) any rentals or other remuneration tendered after the making of the application; or
- (c) any other attempt, made after the making of the application, to cure a default,

unless such drilling, tender or other action is agreed to or accepted by the lessor. R.S.O. 1970, c. 188, s. 6.

Appeal

**7.** An appeal lies to the Divisional Court from the order of the judge granting or refusing an order under section 4. R.S.O. 1970, c. 188, s. 7.

Registration of order

**8.** Any order made under section 4, or a copy thereof certified by the clerk of the court under the seal of the court, may be registered in the proper land registry office. R.S.O. 1970, c. 188, s. 8.