

Order No. 170

File No. 03-0001-05

***METIS SETTLEMENTS ACT***  
**METIS SETTLEMENTS APPEAL TRIBUNAL**

Between:

**Evelyn Carifelle**

Appellant

-and-

**Peavine Métis Settlement**

Respondent

Concerning a Land dispute on the SE-08-079-16-5

---

**DECISION**

---

## **The Hearing**

### **Appeal heard by the following members of the Metis Settlements Appeal Tribunal:**

Lorne Dustow, Panel Chair  
Joyce Parenteau, Panel Member  
Ken Allred, Panel Member

### **Parties present at the hearing:**

Evelyn Carifelle, Appellant  
Paul Carifelle, Husband of Appellant

Peavine Métis Settlement, Respondent

Represented by: Ken Noskey, Chair  
Dennis Cunningham, Councillor  
Fred Cunningham, Councillor  
Iner Gauchier, Councillor  
Sherry Cunningham, Councillor  
Claude Cunningham, Land/Membership Clerk  
Violet Noskey, Administrator

### **MSAT staff present:**

Harry Cunningham, Dispute Resolution Officer

### **Place and date of the Hearing:**

Pomeroy Inn  
High Prairie, Alberta  
April 4, 2006

### **Objections to the Panel:**

The Panel Chair asked if there were any objections to the composition or jurisdiction of the Panel. There were no objections.

## Background

On April 1, 2005, Evelyn Carifelle applied to the Métis Settlements Appeal Tribunal for a hearing to determine her interest on a quarter section of land on the Peavine Métis Settlement. Her application form for the land was lost by the administration for Peavine Métis Settlement and not forwarded to Métis Settlements Land Registry.

Council for Peavine Métis Settlement chose not to make a decision respecting Evelyn Carifelle's issue, as there are other land issues with similar circumstances that could be affected. They requested MSAT to settle the matter.

## Jurisdiction

The Tribunal has jurisdiction to hear this appeal according to section 189(1)(b) of the *Métis Settlements Act*, which states:

189(1) *The Appeal Tribunal*  
(b) *must hear appeals and references and perform any function given to it or required to be performed by it under the regulations, bylaws or General Council Policies;*

*Section 8.1 (1) of the Métis Settlements General Council Land Policy further states:*

*Wherever this Policy requires the General Council or a settlement council to make a decision related to the granting, transfer, or termination of interests in land in the settlement area, any person affected by the decision, or lack of a decision, can appeal in writing to the Appeal Tribunal.*

## Summary of Evidence

### Appellant's Evidence

Evelyn Carifelle stated sometime in 1998 she applied for provisional Métis title (PMT) on a quarter section of land described as the SE-08-079-16-5 in the Peavine Métis Settlement. As a result of her application, the land was posted as set out in section 4.3 of the General Council Land Policy by the Settlement. In turn, Evelyn Carifelle applied for a provisional Métis title for the posted land as set out in section 4.4 of the General Council Land Policy.

She did not hear anything further about her application until February 23, 1999 when she received a cheque from the Peavine Métis Settlement for a signing fee of \$200.00 for seismic activity on the land. On February 28, 2001 she received a further cheque for \$10,200.00 for the initial compensation for well site installation and signing fee on the land. She was advised if the well were a producer she would be receiving further compensation. She did not receive any further compensation.

She stated she understood provisional Métis title was for a term of only five years and she was eligible to apply for a further five year PMT or Métis title. She stated she enquired of the Peavine Métis Settlement administrator about applying for a renewal of her interest. She indicated she was told the Settlement administration was not able to locate any record of her original PMT. Upon enquiring further of Council members she alleged she got a “run around.” She was not able to get copies of minutes or any record from the Settlement Council although she noted her name was marked on the SE-08-079-16-5 on the Peavine Métis Settlement map in the settlement office.

On April 1, 2005, having received no satisfactory answers from the Peavine Métis Settlement, she filed an appeal with the Métis Settlement Appeal Tribunal.

### **Respondent’s Evidence**

Mr. Ken Noskey, Chair of Peavine Métis Settlement Council, confirmed that based on Council discussions, the land was posted in April 1998 and at a meeting on July 1, 1998, the application for provisional Métis title by Evelyn Carifelle was approved. This was apparently written in the notes of then Councillor Darlene Carifelle. Neither the minutes of this council meeting nor the notes of Councillor Carifelle can be located in the settlement records.

Councillor Sherry Cunningham stated she spoke to Evelyn Carifelle in May of 2004. She confirmed there was no question in her mind that a PMT for the land in question had been approved for Evelyn Carifelle but was not submitted by the Peavine Métis Settlement to the Métis Settlements Land Registry.

Council members present agreed Evelyn Carifelle was entitled to provisional Métis title on the SE-08-079-16-5 effective July 1, 1998.

### **Findings of Fact**

Evelyn Carifelle applied for a PMT on the SE-08-079-16-5 after the land was posted as available by a Settlement Council resolution on April 21, 1998.

The Peavine Métis Settlement paid Evelyn Carifelle compensation for oil and gas exploration activities on two occasions; in February of 1999 and again in February of 2001.

The Métis Settlements Land Registry has no record of a PMT in Evelyn Carifelle’s name on the land in question. Further, there is no written evidence confirming Evelyn applied for the land in question.

Evelyn Carifelle attempted to make a further application for an extension of her PMT or for Métis title about the time her initial PMT would have expired had it been duly granted and registered in the Métis Settlements Land Registry

The Council of the Peavine Métis Settlement believes, although no written evidence was available, that the Council of 1998 granted Evelyn Carifelle a PMT for the land in question. Otherwise she would not have been eligible to receive compensation.

### **Decision**

The Panel finds Evelyn Carifelle is entitled to a Provisional Métis Title on the SE-08-079-16-5 for the time period commencing July 1<sup>st</sup>, 1998 and concluding on June 30<sup>th</sup>, 2003.

Further, the Panel finds Evelyn Carifelle is entitled to receive the compensation to be distributed to an occupant under any Settlement bylaw for the SE-08-079-16-5 for the period commencing July 1<sup>st</sup>, 1998 and concluding on June 30<sup>th</sup>, 2003.

### **Reasons**

The Appellant and Respondent agree Evelyn Carifelle should have received a PMT for the said lands on or about July 1<sup>st</sup>, 1998. Due to administrative problems, it appears an approved PMT for Evelyn Carifelle was not forwarded to the Métis Settlements Land Registry to be recorded.

Since the PMT was never recorded or registered, no notice of PMT expiration was given. A PMT is in effect for five years. If it isn't renewed or converted to Métis title by the end of the five year term, the land reverts back to the Settlement. If the PMT had been registered it would have expired in 2003 and Evelyn Carifelle would have either applied for an extension of the PMT or applied for Métis title. To remedy the two year delay in the renewal or conversion process, the Panel waives the time period for Evelyn Carifelle to apply to the Settlement for the renewal or conversion. The Panel has also extended the time period in which Council must make a decision regarding any further application Evelyn Carifelle makes regarding SE-08-079-16-5.

In order to provide a remedy, the Panel invokes MSA section 190(1)(j), (n), and (o) which states:

*190(1) The Appeal Tribunal may, in respect of any matter before it,*

*(j) make any decision that a settlement council could have made;*

*(n) direct the Registrar of the Métis Settlements Land Registry to correct errors, omissions and discrepancies in the Registry;*

*(o) provide any remedy that, in all the circumstances, fairness requires.*

### **Order**

The Métis Settlements Appeal Tribunal hereby grants provisional Métis title to the SE-08-079-16-5 to Evelyn Carifelle effective July 1<sup>st</sup>, 1998.

MSAT directs the Métis Settlements Land Registrar to register a provisional Métis title for the SE-08-079-16-5 to Evelyn Carifelle effective July 1<sup>st</sup>, 1998.

MSAT further orders that within 30 days of the coming into effect of this Order, Evelyn Carifelle submit an application for an extension of her PMT or for Métis Title, whichever she feels she is entitled to, to the Peavine Métis Settlement Council for consideration.

MSAT orders Peavine Métis Settlement Council to make a decision regarding Evelyn Carifelle's application for Métis title or renewal of the provisional Métis title for the SE-08-079-16-5 within 90 days of her application.

MSAT further orders the Peavine Métis Settlement to ensure that Evelyn Carifelle is properly compensated for any monies that are due to her as a result of her provisional Métis title granted effective July 1, 1998.

Dated in the City of Edmonton in the  
Province of Alberta on the 20th day of  
April, 2006.

---

Lorne Dustow, Panel Chair