

MÉTIS SETTLEMENTS ACT
MÉTIS SETTLEMENTS APPEAL TRIBUNAL

Between:

Conrad Martineau

Appellant

-and-

Council for Paddle Prairie Métis Settlement

Respondent

Concerning a Land dispute on the SW-33-102-23-5

DECISION

THE HEARING

Appeal heard by the following members of the Métis Settlements Appeal Tribunal:

Mr. Don Cunningham, Panel Chair
Mr. Allan Lamouche, Panel Member
Ms. Violet Haggerty, Panel Member

Parties present at the hearing:

Conrad Martineau, Appellant

Paddle Prairie Métis Settlement, Respondent

Represented by: Carol Cardinal, Council Member
Annette Poitras, Land & Membership Clerk

Carmen Laboucane, Affected Party

Raymond Arnault – Observer
Doreen Poitras – Observer

MSAT staff present:

Harry Cunningham, Dispute Resolution Officer

Place and date of the Hearing:

Paddle Prairie Métis Settlement Hall
Paddle Prairie Alberta, Alberta
July 31, 2007

Objections to the Panel:

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

BACKGROUND

On September 12, 1979 Conrad Martineau was granted an Allotment to land legally described as SW-33-102-23-5.

On June 17, 1995 Conrad Martineau applied to convert his allocation to Provisional Métis Title (PMT)

On June 26, 1995 Conrad Martineau's application was approved by Council Resolution and a request to register the parcel was sent to the Métis Settlements Land Registry. (MSLR)

On July 17, 1995 Conrad Martineau signed a Memorandum of Provisional Métis Title.

On March 25, 1996 Conrad Martineau was advised by letter from the MSLR that the parcel of land had been registered.

On April 19, 2000 Conrad Martineau was advised by letter from the MSLR that his PMT interest will expire on June 26, 2000.

On May 15, 2000 Conrad Martineau was advised by letter from the Paddle Prairie Métis Settlement that his interest would be expiring June 26, 2000 unless he took steps to keep it.

On May 29, 2000 Conrad Martineau applied to upgrade his PMT interest to Métis Title.

On September 25, 2000 by Paddle Prairie Metis Settlement Resolution Conrad Martineau's application to upgrade to Metis Title was refused.

On October 4, 2000 Conrad Martineau was advised by letter from the Paddle Prairie Métis Settlement Registration Clerk his application to upgrade was not approved due to non residence on the Settlement.

On November 14, 2000 Conrad Martineau was advised by letter from the MSLR his PMT interest had expired and his registration will be cancelled.

On June 11, 2003 Conrad Martineau was advised again by letter from the MSLR his PMT interest had expired and his registration will be cancelled.

On June 17, 2003 Conrad Martineau was advised by letter from the Paddle Prairie Métis Settlement his application to renew his Memorandum of Allotment was approved by Council for a five year term.

On April 28, 2005 Conrad Martineau was advised by MSLR his second 5 year term of his PMT interest for SW-33-102-23-5 will expire on June 25, 2005.

On December 12, 2005 Conrad Martineau obtained a letter of support from the Paddle Prairie Métis Settlement Land Clerk in regards to his expired interest.

February 27, 2006 was the deadline for applications on a posting of available lands for PMT interests on a number of parcels including SW-33-102-23-5.

On February 24, 2006 Conrad Martineau a member of the Paddle Prairie Métis Settlement applied for the land.

On February 27, 2006 Carmen Laboucane, a member of the Paddle Prairie Métis Settlement, also applied for the land.

On April 3, 2006 Council for Paddle Prairie Métis Settlement reviewed the applications for the parcel of land legally described as SW-33-102-23-5 and by resolution awarded the land to Carmen Laboucane.

On July 14, 2006 Conrad Martineau was advised by letter from Paddle Prairie Métis Settlement his application was not approved as he did not comply with all of the conditions of the General Council Land Policy and the Posting.

On July 14, 2006 Carmen Laboucane was advised by letter from Paddle Prairie Métis Settlement her application for PMT was approved by Council.

On July 24, 2006 Conrad Martineau signed a form letter requesting a status check be done as required by Paddle Prairie Métis Settlement to obtain services from the Settlement.

On August 3, 2006 Conrad Martineau was advised by letter from the MSLR his PMT interest had expired and he had 60 days to object to the cancellation.

On October 10, 2006 Conrad Martineau was advised by letter from the MSLR his PMT interest had been cancelled.

On October 02, 2006 Conrad Martineau appealed Settlement Council's decision to award the land to Carmen Laboucane.

On November 23, 2006 a payback agreement for Carmen Laboucane dated February 19, 2004 and record of payments was obtained from Paddle Prairie Métis Settlement Finance Department.

JURISDICTION

The Tribunal has jurisdiction to hear this appeal according to section 189(1)(b) of the *Métis Settlements Act*, and Section 8.1 Métis Settlements General Council Land Policy which state:

189(1) The appeal Tribunal

...
*(b) must hear appeals and references and perform any other function given to it or required to
Be performed by it under regulation, by-laws or General Council Policies;*

Section 8.1 Right to appeal

Whenever this Policy requires the general Council or a settlement council to make a decision related to granting, transfer, or termination of interest in land in the settlement area, any person affected by the decision, or lack of decision, can appeal in writing to the appeal tribunal.

APPELLANT'S EVIDENCE

Conrad Martineau advises he had the land since September 12, 1979 and he was given a PMT by the settlement. When his interest expired he applied for it again and given a PMT in June 2003, he believes his interest is still in effect as it should not expire until June 2008.

Conrad Martineau stated he did do some improvements to the parcel by burning brush, but he did not let Council know about that as he didn't know he had to. He would like to leave it in its natural state as he uses it for hunting deer with his brother. He further stated he would like to build on land but there is no access and he is not living or using it at this time. He states there are no buildings on the land just quad trails and cutlines.

Conrad Martineau further advises he spoke to Council members and was told they would grant him his land back. He was told in a meeting Council would post the land with special conditions so he can get it back. He advises there should have been minutes of his meeting with Council but the minutes were lost. He felt he is being treated unfairly

Conrad Martineau stated Carmen Laboucane owes money to the Settlement and yet she was given the land. He did not have a status check done when he applied for the land as he had lost his wallet and I.D. and he needed one to do a status check. He was paid compensation for the land for oil and gas until a few years ago in 2005. He was born and raised in Paddle Prairie he wants his land back as that is all he has, no free house for him, but would like his land back.

RESPONDENT'S EVIDENCE

Carol Cardinal stated she was just appointed this morning to represent the Settlement at this hearing. She advises she was not at the meeting when Council made a motion to decide on this parcel of land.

She states she believes Conrad Martineau's application for PMT was approved in June 2003 but the expiry date did not change as the interest was back dated to begin June 2000. The interest did not go from 2003 to 2008 as suggested by Conrad Martineau as they would then have to re-post it.

She further advised the land was logged out and the money is being held in trust. A timber permit was issued to Carmen Laboucane, but neither party received payment. It is the responsibility of the staff to stop the logging, the logging was put on hold but the spruce was logged out to fulfill a contract agreement with the contractor.

Carol Cardinal further advised that a previous interest holder is given preference in these situations but they still have to fit the criteria on the posting. Status checks are very important; members lose benefits because of no status checks. Status checks have to be done every year as per by-law.

Carol Cardinal stated it is the opinion within Council is they will adhere to the decision of MSAT. She advises Council is trying to follow the rules and it is also the responsibility of the members to ensure their titles are looked after and they follow procedures. The land has been logged and the money held in trust pending MSAT decision.

Ms. Annette Poitras stated that a standard form is used to check for monies owed to the Settlement and status check from Northern and Indian Affairs.

Carmen Laboucane stated she went to the office and saw the land posting, she applied for it. She advises she has been resident member of the Settlement, all her life. She never had land. She did not know someone else owned the land before. She is now raising her own family in the Settlement. She is paying for her house and water. Once she got the notice her application for the land was approved she applied for a timber permit and that was approved.

Carmen Laboucane advises she has horses; she wants the land to put the horses in.

She made a deal with a logging company to harvest the trees.

Carmen Laboucane further advises there are no visible improvements to the land, such as burning brush. She stated there is access to the land from another road from two sides, yet no work was done to the land.

Carmen Laboucane further stated that Conrad Martineau requested the land be posted he should have got all of his paper work in place first. Conrad Martineau was given sufficient time to deal

with this land, he is not a resident member, is transient and she is more qualified to hold the land. She also stated Conrad Martineau did not appeal the Settlement Council decision within 45 days after Council made the decision.

FINDINGS OF FACT

Conrad Martineau was granted an allocation of land leally described as SW-33-102-23-5 on September 12, 1979.

Conrad Martineau applied to convert his allocation to Metis Title June 12, 1995.

On June 26, 1995 by land conversion resolution he was granted a Provisional Métis Title (PMT) starting June 26, 1995 ending on June 26, 2000.

Conrad Martineau applied for an upgrade to Metis Title for the parcel on May 29, 2000.

Council for Paddle Prairie Métis Settlement denied his application on June 25, 2000 due to non-residence.

Conrad Martineau's PMT interest for the parcel expired on June 26, 2000 and was advised by Métis Settlements Land Registry that his interest would be cancelled unless he objected to the cancellation within 60 days.

On May 29, 2003 Conrad Martineau applied to re-new his PMT interest for this parcel of land.

On June 9, 2003 Conrad Martineau was granted an Allotment by the Paddle Prairie Métis Settlement Council.

On June 12, 2003 MSLR05 Form, Revise PMT or Allotment Expiry date, was signed by the Administrator. This form on file at the Paddle Prairie Métis Settlement did not match the MSLR05 form obtained from the land registry, subsequently a PMT interest was registered for Conrad Martineau.

Conrad Martineau's interest for the parcel of land was back dated to June 26, 2000 to accommodate a second five year term that expired on June 25, 2005.

The land was then posted with conditions and a deadline for applications set for February 28, 2006.

Carmen Laboucane and Conrad Martineau both applied for the land before the deadline.

In March 20, 2006 document, Paddle Prairie Métis Settlement Request for Council Decision/Consideration, it appears Curtis Laboucane also applied for the land.

On April 3, 2006 Council for Paddle Prairie Métis Settlement awarded a PMT interest to Carmen Laboucane.

DECISION

The Panel reverses Settlement Council's decision to grant Carmen Laboucane a Provisional Métis Title in SW-33-102-23-W5.

The Panel confirms the Settlement Council's decision not to grant an interest to Conrad Martineau

The Métis Title Interest will revert back to Paddle Prairie Métis Settlement including any funds being held in trust for the logging operation.

REASONS

Council erred in awarding the land to Carmen Laboucane as records show she still owed money to the Settlement and was in arrears on her payback agreement when the motion was made to grant her the interest on April 3, 2006. She did not qualify to be awarded the interest as per conditions set out on the posting for available land.

This Panel agrees with Council for Paddle Prairie Métis Settlement not to award an interest to Conrad Martineau.

Conrad Martineau held a PMT interest for the land for 10 years, the maximum allowed under the Memorandum of Provisional Métis Title. No evidence was submitted to this panel that indicated any significant improvements were done to the land that would enable an upgrade to Métis Title.

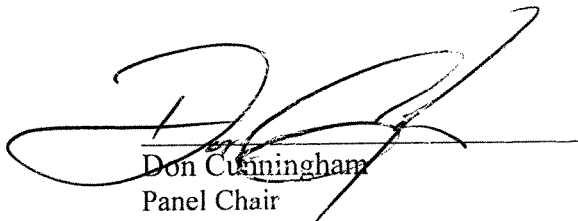
This panel took into consideration there are no provisions in the legislation to allow for back dating PMT interest as was done in this case; however since the land was not posted in 2003 and Mr Martineau simply applied to renew a PMT he previously had, he was aware the only way he could renew the interest was for the original Memorandum of Provisional Métis title to apply. His PMT interest expired on June 25, 2005 according to the Métis Settlements Land Registry.

Although Conrad Martineau did not file his appeal within the specified time allowed for an appeal, this panel under the circumstances of the case extends the time requirement as Conrad Martineau could not recall when he received the letter denying his application.

ORDER

The Tribunal orders the Métis Settlements Land Registry to cancel the PMT Interest registered for Carmen Laboucane to SW-33-102-23-5 and revert the land interest back Paddle Prairie Métis Settlement.

Dated in the City of Edmonton in the
Province of Alberta on the 17 day of
August, 2007.



Don Cunningham
Panel Chair