

INFORMATION SHEET: GUIDE TO SETTLEMENT OF DAMAGE DISPUTES

Issued by the Alberta Surface Rights Board – www.srb|cb.gov.ab.ca

STAGE OF PROCEDURE	OVERVIEW	CROSS REFERENCES
<p>1. Damage or Losses</p>	<ul style="list-style-type: none"> - Only an Owner or Occupant who is a party to the Surface Lease or Right of Entry Order may apply under this section. - An Owner or Occupant may apply for an order for compensation for damage or losses arising from operations relating to a Right of Entry order or Surface Lease: <ul style="list-style-type: none"> o For damage to land of the Owner/Occupant other than the area granted to the operator o For any loss or damage to livestock or other personal property of the Owner/Occupant o For time spent or expense incurred by an Owner/Occupant to recover livestock that have strayed due to Operator - This does not apply to any compensation retrievable under a Section 25 proceeding. 	<p>SRA s 30(1)</p> <p>SRA s 30(1)(a)</p> <p>SRA s 30(1)(b)</p> <p>SRA s 30(1)(c)</p> <p>SRA s 30(3)</p>
<p>2. Limits to Compensation</p>	<ul style="list-style-type: none"> - Application must be made in writing to the Board by a party to the dispute within 2 years from the last date on which damage is alleged to have occurred - Amount of Compensation claimed cannot exceed \$25,000 	<p>SRA s 30(2)(a)</p> <p>SRA s 30(2)(c)</p>

Disclaimer: This general information is provided as a courtesy only. If you need specific or legal advice, consult legislation or seek legal counsel.

<p>3. Application</p>	<ul style="list-style-type: none"> - The Owner or Occupant submits an Application for Damages (see SRB website for details), which should include: <ul style="list-style-type: none"> o Copy of the original Surface Lease or Right of Entry Order, and amendments including plan of site o Details of the claim, including reasons for claim and the amount claimed o Any other relevant documents 	<p>SRB Rules 14-17</p>
<p>4. Pre-Hearing Dispute Resolution Conferences</p>	<ul style="list-style-type: none"> - After receiving an application, the Board schedules a Dispute Resolution Conference (DRC) - At a DRC, Board Member discusses with the Parties: <ul style="list-style-type: none"> o Identification and simplification of issues o Which facts can be agreed on o Whether issues can be settled o Disclosure and exchange of information o Hearing dates - Mediation is encouraged, and may be facilitated by Board Members <ul style="list-style-type: none"> o Mediation Guideline, Mediation Information o Request for Mediation Form 	<p>SRB Rules 18(1)</p> <p>SRB Rules 19(1)</p> <p>SRB Rules 29(1)</p> <p>SRB Rules 20</p>
<p>5. Damage Dispute Hearing</p>	<ul style="list-style-type: none"> - The Board schedules an oral hearing when all 3 requirements are met: <ul style="list-style-type: none"> o The completed application and all required documents are received o There are no unresolved issues to delay the hearing o DRC did not resolve the Compensation Issue - Board may inspect the land involved in the proceedings - Previous decisions of the Board are available on the Board website. 	<p>SRB Rules 21</p> <p>SRA s 24</p>

6. Costs	– The Board may, at its discretion, award reasonable costs that the Respondent or Lessor incurs in relation to board proceedings	SRA s 39 ; SRB Rules 31
7. Reviews and Appeals a) Review: Surface Rights Board b) Appeal: Queen’s Bench c) Appeal: Court of Appeal	<ul style="list-style-type: none"> – Either party may apply to the SRB to review a Board Decision or Order – The Board may review, rescind, amend, or replace any Order or Decision – The Board appoints a Panel to determine if requirements for review are met: <ul style="list-style-type: none"> ○ Obvious error in law or jurisdiction, Important error of fact, or Obviously unfair or unjust process ○ Inconsistency with previous decisions, legislation, etc. ○ Important evidence was not presented due to unavailability – Either party may appeal a Compensation Order to Alberta Court of Queen’s Bench <ul style="list-style-type: none"> ○ Must appeal within 30 days after receipt of compensation order ○ The appeal takes form of a new hearing ○ Court may direct SRB to vary order – Either party may appeal from Queen’s Bench judgment, if leave of Court of Appeal judge is granted 	<p>SRB Rules 37(1)</p> <p>SRA s 29; SRB Rules 38</p> <p>SRB Rules 37(4)</p> <p>SRB Rules 37(5)</p> <p>SRB Rules 37(6)</p> <p>SRB Rules 37(7)</p> <p>SRA s 26(1-7)</p> <p>SRA s 26(10)</p> <p>SRA s 26(8)</p>