



INFORMATION SHEET: GUIDE TO SETTLEMENT OF DAMAGE DISPUTES

Issued by the Alberta Surface Rights Board – www.surfacerights.alberta.ca

| STAGE OF PROCEDURE | OVERVIEW | CROSS REFERENCES |
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| <p>1. Damage or Losses</p> | <p>Only an Owner or Occupant who is a party to the Surface Lease or Right of Entry Order may apply under this section.</p> <p>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:</p> <ul style="list-style-type: none"> • For damage to land of the Owner/Occupant other than the area granted to the operator • For any loss or damage to livestock or other personal property of the Owner/Occupant • For time spent or expense incurred by an Owner/Occupant to recover livestock that have strayed due to Operator <p>This does not apply to any compensation retrievable under a Section 25 proceeding.</p> | <p>s 30(1) of the Surface Rights Act (SRA)</p> <p>s 30(1)(a) SRA</p> <p>s 30(1)(b) SRA</p> <p>s 30(1)(c) SRA</p> <p>s 30(3) SRA</p> |
| <p>2. Limits to Compensation</p> | <p>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</p> <p>Amount of Compensation claimed cannot exceed \$50,000</p> | <p>s 30(2)(a) SRA</p> <p>s 30(2)(c) SRA</p> |

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

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

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| | Previous decisions of the Board are available on CanLii.org . | |
| 6. Costs | The Board may, at its discretion, award reasonable costs that the Respondent or Lessor incurs in relation to board proceedings | s 39 SRA ; SRB Rules 31 |
| 7. Reviews and Appeals | Either party may apply to the SRB to review a Board Decision or Order | s 37(1) SRB Rules |
| a) Review: Surface Rights Board | 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 | s 29 SRA ; SRB Rules 38 SRB Rules 37(4) SRB Rules 37(5) SRB Rules 37(6) SRB Rules 37(7) |
| b) Appeal: Queen's Bench | 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 | s 26(1-7) SRA s 26(10) SRA |
| c) Appeal: Court of Appeal | Either party may appeal from Queen's Bench judgment, if leave of Court of Appeal judge is granted | s 26(8) SRA |

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