

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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September 17, 2018

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
on behalf of JUSTIN HICKMAN,
Complainant,

v.

HUBER CARBONATES, LLC,
Respondent.

TEMPORARY REINSTATEMENT
PROCEEDING

Docket No. LAKE 2018-0343-DM
MSHA Case No: NC-MD-18-06

Mine: Quincy Plant
Mine ID: 11-02627

DECISION AND ORDER

Appearances: Jing Zhang, Esq., U.S. Department of Labor, Office of the Solicitor, Chicago, Illinois, for the Complainant;

Jason Nutzman, Esq., Dinsmore & Shohl LLP, Charleston, West Virginia, for the Respondent.

Before: Judge Rae

This matter, heard on September 11, 2018, in St. Louis, Missouri, is before me based on an application for temporary reinstatement filed by the Secretary of Labor (Secretary) on behalf of Justin Hickman, pursuant to section 105(c)(2) of the Federal Mine Safety and Health Act of 1977 (the Mine Act), 30 U.S.C. § 815(c)(2), against Huber Carbonates, LLC (Huber or Respondent). This statutory provision prohibits operators from discharging or otherwise discriminating against miners who have complained about alleged safety or health violations, or who have engaged in other safety-related protected activity. Section 105(c)(2) of the Mine Act authorizes the Secretary to apply to the Commission for the temporary reinstatement of a miner pending the full resolution of the merits of his discrimination complaint. The Secretary found that Hickman's discrimination complaint was not frivolously brought and filed his petition on behalf of Hickman.

For the reasons that follow, I grant the application and order Justin Hickman's temporary reinstatement.

I. PRINCIPLES OF LAW

Section 105(c) of the Mine Act prohibits discrimination against miners for exercising any protected right under the Mine Act. The purpose of the protection is to encourage miners “to play an active part in the enforcement of the [Mine] Act” recognizing that “if miners are to be encouraged to be active in matters of safety and health they must be protected against any possible discrimination which they might suffer as a result of their participation.” S. Rep. No. 95-181, at 35 (1977), *reprinted in* Senate Subcomm. on Labor, Comm. on Human Res., *Legislative History of the Federal Mine Safety and Health Act of 1977*, at 623 (1978).

A temporary reinstatement proceeding is analogous to a preliminary hearing. Unlike a trial on the merits of a discrimination complaint brought by the Secretary where the Secretary bears the burden of proof by the preponderance of the evidence, the scope of a temporary reinstatement proceeding is limited by statute. Section 105(c) of the Mine Act, as well as Commission Rule 45(d), 29 C.F.R. § 2700.45(d), limit the issue in an application for temporary reinstatement to whether the subject discrimination complaint has been “frivolously brought.” Rule 45(d) provides:

The scope of a hearing on an application for temporary reinstatement is limited to a determination as to whether the miner’s complaint was frivolously brought. The burden of proof shall be upon the Secretary to establish that the complaint was not frivolously brought. In support of his application for temporary reinstatement, the Secretary may limit his presentation to the testimony of the complainant. The respondent shall have an opportunity to cross-examine any witnesses called by the Secretary and may present testimony and documentary evidence in support of its position that the complaint was frivolously brought.

29 C.F.R. § 2700.45(d).

Courts and the Commission have concluded that the “not frivolously brought” standard of section 105(c) is satisfied when there is a “reasonable cause to believe” that the discrimination complaint “appears to have merit.” *Jim Walter Res., Inc. v. FMSHRC*, 920 F.2d 738, 747 (11th Cir. 1990); *Sec’y of Labor on behalf of Bussanich v. Centralia Mining Co.*, 22 FMSHRC 153, 157 (Feb. 2000) (citations omitted).

While the Secretary is not required to present a prima facie case of discrimination to prevail in a temporary reinstatement proceeding, it is helpful to review the elements of a discrimination claim to determine if the evidence at this stage satisfies the “not frivolously brought” standard. As a general proposition, to demonstrate a prima facie case of discrimination under section 105(c) of the Mine Act, the Secretary must establish that the complainant participated in safety-related activity protected by the Mine Act, and, that the adverse action complained of was motivated, in some part, by that protected activity. *See Sec’y of Labor on behalf of Pasula v. Consolidation Coal Co.*, 2 FMSHRC 2786, 2797-800 (Oct. 1980), *rev’d on other grounds sub nom. Consolidation Coal Co. v. Marshall*, 663 F.2d 1211 (3d Cir. 1981);

Sec'y of Labor on behalf of Robinette v. United Castle Coal Co., 3 FMSHRC 803, 817-18 (Apr. 1981).

In demonstrating a motivational nexus between the protected activity and the adverse action, the Commission has recognized that direct evidence of motivation is rarely encountered; more typically, the only available evidence is indirect. *Sec'y of Labor on behalf of Chacon v. Phelps Dodge Corp.*, 3 FMSHRC 2508, 2510 (Nov. 1981), *rev'd on other grounds*, 709 F.2d 86 (D.C. Cir. 1983). The Commission has identified several circumstantial indicia of discriminatory intent: (1) hostility or animus toward the protected activity; (2) knowledge of the protected activity; (3) coincidence in time between the protected activity and the adverse action; and (4) disparate treatment of the miner. *Id.*

Finally, it is not the judge's duty to resolve conflicts in testimony or to entertain the operator's rebuttal or affirmative defenses at the preliminary stage of the proceedings. *Sec'y of Labor on behalf of Albu v. Chicopee Coal Co.*, 21 FMSHRC 717 (July 1999).

II. SUMMARY OF THE EVIDENCE

Hickman testified that he was fired from Huber Carbonates, a subsidiary of J.M. Huber Corporation, Tr. 21, after three years¹ of employment at the Quincy Plant. He worked as the Ball Mill Complex² (BMC) coordinator³ responsible for anything from giving input on hiring or firing, issuing disciplinary measures, managing the schedule of the mills, and assigning⁴ duties to the miners within the Ball Mills. Tr. 22. Hickman supervised 10 to 11 miners. Tr. 22, 92. As a supervisor, Hickman was a salaried employee working roughly 40–50 hours per week and making \$70,029 as his base salary.⁵ Tr. 22.

As the BMC coordinator, Hickman's performance for the first half of 2017 appeared excellent: he received a 4.70% raise for exceptional performance in early 2017; he was the recipient of a presidential award for exceptional work in early 2017; and he was offered the opportunity to go back to school to earn a bachelor's degree paid for by Huber. Tr. 24-25, 27. Additionally, on July 18, 2017, Huber offered Hickman a promotion to the ultrafine mill

¹ Hickman testified that he was first hired in "March of 2015." Tr. 23. However, it appears he misspoke as he then discussed moving to different positions over the course of eight or nine months and eventually becoming a night supervisor in "early 2015." Tr. 23.

² The Ball Mill Complex is responsible for grinding calcium carbonate to a specific micron size for additives in things like PVC and paints. Tr. 21-22.

³ Hickman testified that prior to becoming the BMC coordinator he worked at Huber as a roller mill operator, a stock truck driver, and a temporary night supervisor. Tr. 23.

⁴ Although the transcript says, "signing duties to the operators within the ball mills," Tr. 22, based on context and what I understood at hearing, I interpret this as "assigning duties."

⁵ Hickman stated the number of hours he worked did not affect his pay. Tr. 23.

complex. Tr. 26. Hickman declined the offer, citing that there was no immediate salary raise that came with the promotion and he wanted to focus on what he was working on. Tr. 26-27.

On July 3, 2017, Austin Roberts, a miner Hickman supervised, was pressured multiple times by George Crane⁶ into running a stock truck without the necessary site-specific training. Tr. 27-28, 30. On July 25, 2017, Hickman made a safety complaint about Crane's actions to Stacy Atteberry, the local HR representative, and eventually to Jackie Thompson, the regional manager for HR corporate. Tr. 28-29. Corporate eventually sent the issue back to the plant and local level, informing Kristi Taylor, the local HR manager, and Mike Morris, the local plant manager. Tr. 29. Hickman testified that Atteberry told him a few days later that people in the main office at the Quincy Plant were upset and knew that Hickman had circumvented the chain of command by taking the safety complaint straight to corporate. Tr. 29.

Crane was known for manipulating people, making threats, and insinuating things, so Hickman tried to stay out in front of any accusations. Tr. 30. Hickman raised concerns about Crane with Atteberry and Thompson multiple times and eventually had phone and email exchanges with Sharon Noble, the vice president of HR for J.M. Huber. Tr. 30. Hickman was told his complaint was investigated, but nobody ever followed up with him. Tr. 30-31.

Eventually, in August or September of 2017, Crane was removed from his position as Hickman's direct supervisor and was replaced with Robert Hogan. Tr. 79-80. After Hickman's complaint, management's attitude toward him changed. Hickman felt isolated from coworkers, shipping deadlines were not being met for the first time, and things that were never issues before were being cited as issues. Tr. 31-32.

Hickman testified on cross examination that the mine had a history of dust problems. Tr. 82. He recalled an incident in 2016 while they were installing mill 38. Tr. 82. Hickman and Tony Lahey, who was the environmental health and safety (EHS) manager at the time, were pushing to shut certain mills down after a pressure relief valve popped and created heavy dust within the building. Tr. 82-83. Morris and Crane's solution to the problem, however, was to only run those mills after 3:00 p.m., which exposed Ritchie Pressy, one of Hickman's miners, to dust all night long. Tr. 83. Hickman testified that a complaint was made to management about this, which Hickman believes was the reason Lahey was later fired. Tr. 83. Hickman testified that additional complaints about dust were raised by miners to him between August 2017 and into 2018. Tr. 83. Hickman took those complaints up to management. Tr. 83.

On January 16, 2018, Hogan interviewed Hickman and asked if he had ever been told to tell his crew to manipulate the MSHA air samples. Tr. 58. Hickman told Hogan that in 2015 he was instructed by Director of Operations Rick Zwingelberg and Maintenance Manager Sean Eisenbeiss to adjust his team's duties or not do certain work in order to ensure that MSHA's air sample readings were underexposed. Tr. 55-56, 58. Hickman also told Hogan that in 2017 work

⁶ George Crane was Hickman's direct supervisor and the production manager at the plant at the time. Tr. 25.

activities were manipulated between the nutritional⁷ group and industrial group, which helped reduce the air samples' dust exposure readings. Tr. 56, 58.

On January 17, 2018, Hogan sent an email instructing everybody that employees wearing dust pumps should carry on with their normal duties and ensure that the samples collected are an accurate representation of the working environment. Tr. 58; Ex. S-6. Despite the email from Hogan, Hickman testified that Lori Dowil, the EHS manager, coached people to not do activities that would show overexposure of dust when MSHA was around during the MSHA inspection that occurred in February 2018. Tr. 58-59.

On January 18, 2018, Inspector Steve Cody took instantaneous dust readings and found the BMC was extremely overexposed. Tr. 34. During his time with Inspector Cody, Hickman learned about the dangers of breathing in calcium carbonate rock dust and the importance of accurate dust readings so that miners were not being overexposed. Tr. 35, 59. The next day, January 19, Hickman sent an email to Dowil to see how many of the BMC employees were fit tested and to schedule appointments for those who had not been fit tested. Tr. 35-36; Ex. S-1. Hickman could not recall receiving a response from Dowil, but he pushed the issue in morning production meetings and eventually got his miners fit tested a week later. Tr. 36.

On January 30, 2018, Hickman sent an email to various management members, including Kevin Miller, the maintenance supervisor, with a 14-point list of problematic areas that needed to be fixed. Tr. 38-39; Ex. S-2. Hickman also CCed Ashley Anders, who was in charge of putting work orders into the system. Tr. 39-40. The leaks enumerated by Hickman were those that he could not have fixed himself and should have been addressed by the maintenance department. Tr. 40. Hickman said there were some attempts to fix these problems but, to his knowledge, some of the problems have not been fixed to date. Tr. 41.

On February 9, 2018, Hickman received and signed a Performance Improvement Plan (PIP). Tr. 41-42; Ex. S-3. Hogan and Atteberry gave Hickman the PIP, Tr. 42, which cited repeated delayed shipments, incomplete preventative maintenance on equipment, and multiple safety issues. Ex. S-3. The PIP was to last 60 days and required Hickman to hit performance benchmarks or face serious consequences. Tr. 43-44; Ex. S-3. In 2018, only two employees—Hickman and Kevin Ransom, the Roller Mill Complex Supervisor—were placed on a PIP. Tr. 44-45. According to Hickman, a PIP was a death knell: “nobody at Huber has ever survived a [PIP], to my knowledge.” Tr. 51.

As part of the PIP, Hickman was supposed to have regular check-ins with his direct supervisor, Robert Hogan. Tr. 49; Ex. S-3. However, despite having the check-ins on the outlook calendar every Thursday, Hogan never showed up to the meetings. Tr. 49; Ex. S-3.

On February 27, 2018, Hickman sent an email to eight members of Huber management and HR who were assigned to review and assess his PIP and review. Tr. 50-51; Ex. S-4. In the email, Hickman listed 28 bullet points to rebut the three major accusations in the PIP. Tr. 49-51; Ex. S-4. At the end of his email, Hickman stated in clear terms, “I know I have upset some

⁷ “Nutrition” is the name of another sector of the plant where they create food-grade calcium carbonate. Tr. 63.

people by reporting this. I have been threatened, intimidated, isolated and retaliated against for driving issues such as training, fugitive dusting, and environmental issues.” Ex. S-4. In response, Sharon Noble told Hickman that retaliation was against the Huber Code of Ethics and the culture, and she wanted to know more about these allegations. Tr. 52.

Later that day, February 27, and in response to Noble’s comments, Hickman sent Noble and regional HR manager Dave Daisy a seven-point list of actions taken by his superiors that he perceived as retaliation for his earlier safety complaints. Tr. 51, 53; Ex. S-5. Three of the seven points alleged that resources and personnel, which were needed, were being withheld from the BMC group. Ex. S-5. Hickman concluded the email by stating that he had previously seen coordinators in the past who had been “choked out of resources until they reach failure only to have those resources restored once they are terminated . . .” Tr. 54; Ex. S-5. Hickman testified that he only sent this email to Noble and Daisy because certain individuals who received the earlier email (i.e., the 28-bullet-point rebuttal) were angry at him for what he was doing. Tr. 54.

On March 6, 2018, Hickman was called to Zwingelberg’s office. Tr. 60. During that meeting, Hickman was told that Zwingelberg and Matt O’Brien, the VP and general manager, were prepared to make “necessary changes” in the BMC. Tr. 60. Hickman interpreted this as a threat that, unless he reassigned his team to conduct tasks that would underexpose the dust measures, he would be let go. Tr. 61. Despite this, Hickman told Zwingelberg that he would not reassign his miners to change their tasks for the MSHA sampling. Tr. 61. At some point after this conversation, sampling triggered 104(b) orders to withdraw the load outs and mill 26. Tr. 60. There was confusion between members of management on what to do with the 104(b) orders: Dowil and Morris instructed Hickman to run the mills; Hogan instructed Hickman to not restart any mills or processes until the modifications were in writing. Tr. 60; Ex. S-7.

On March 15, 2018, Hickman and three of his supervisees were called in by Zwingelberg who was frustrated with the 104(b) orders. Tr. 62-64. Hogan, Morris, and Dowil were also present as well. Tr. 64. Zwingelberg asked Hickman and his BMC team if they all wanted to be laid off like Nutrition, a sector of the plant that was laid off in early December 2017. Tr. 63. Hickman perceived this comment as a threat that they would be replaced with miners willing to work in illegally dusty conditions. Tr. 63. Zwingelberg stated that the mills had no problems for 20 years, to which Hickman responded that it was because they had been cheating the samples and that BMC was done cheating the samples. Tr. 63.

On March 24, 2018, Zwingelberg and Inspector Cody had walked around the respirator area taking samples, including time measurements. Tr. 67. By the time Hickman got to the plant, Inspector Cody was packing up to leave. Tr. 67. Hickman was not told what Inspector Cody had said about the area nor was Hickman directed to fix or address any issues in the respirator area. Tr. 67. Over the next week, however, Hickman spoke with Hogan, Eisenbeiss, and Morris about keeping the packers clean, putting shelving up, and installing hanging giant hooks on the wall. Tr. 68. Despite these conversations, Hickman never assumed responsibility nor was he directed to be responsible for installing the hooks.⁸ Tr. 68. Hickman testified that he did not know who was ultimately responsible for installing the hooks. Tr. 68.

⁸ Hickman did state that he purchased some light-duty wall hanging hooks after Hogan requested that Hickman take care of small things in his area. Tr. 68-69. However, the small

On April 1, 2018, Hickman filled out a 105(c) discrimination complaint. Tr. 72, 74; Ex. S-8. He mailed it to MSHA via USPS on April 2, 2018. Tr. 72, 74-75; Ex. S-8. Hickman subsequently informed Hogan that he had sent the 105(c) discrimination complaint earlier that morning. Tr. 72.

On April 3, 2018, Inspector Cody returned and issued a 104(d) citation for failure to have a fully functional respirator protection program. Tr. 65. Specifically, the area was cited for not having disposable parts for the respirators. Tr. 66. Despite having had discussions with Hogan, Eisenbeiss, and Morris the week before, Hickman did not realize that Inspector Cody had previously requested they have the area fully functional. Tr. 66-67. After the 104(d) citation was issued, Huber installed the wall hooks like they planned. Tr. 70. Since the respirators were full-hooded heavy units, the fix required a stable setup. Tr. 70. The maintenance team installed two-by-fours, concrete anchors, and giant bandoleer hooks. Tr. 70. The project required drilling concrete and brick—work that was outside the expertise and scope of the BMC team. Tr. 70-71.

On April 4, 2018, Hickman was called to the office by Zwingelberg. Tr. 71. On his way up, Hogan told Hickman that management would try and blame Hickman for the 104(d) citation. Tr. 71. When Hickman got to the office, Zwingelberg chastised Hickman for not following instructions related to the respirator area. Tr. 71. Hickman denied at hearing ever being directed by Zwingelberg to install the wall hooks. Tr. 72.

On April 11, 2018, Hickman was terminated. Tr. 76. Although Hickman had two weeks left of the PIP's 60-day term, he was told it would not make a difference and that he failed his PIP goals. Tr. 47, 76. Hickman was not given the results of his PIP, Tr. 47, 77, and was never told by Hogan how he was doing while on the PIP. Tr. 49.

Counsel for Respondent called two witnesses: Kristi Taylor and Lori Dowil. Taylor is the current human resource manager at Huber responsible for employee benefits, hiring, terminations, and performance evaluations. Tr. 97. Dowil is the current EHS manager. Tr. 108.

Taylor testified that only two employees, Hickman and Kevin Ransom, were placed on the PIP in 2018. Tr. 99. Dowil testified that Hickman had received annual refresher training in 2016, 2017, and 2018. Tr. 112. Additionally, she testified that Huber began making changes to reduce dust overexposure after becoming aware of the dust issues in December 2017. Tr. 113-14. Taylor additionally testified that the Quincy Plant had 16 overexposures since the summer of 2017, and MSHA issued 14 enforcement actions for those overexposures during that period. Tr. 113.

III. APPLICATION OF THE LAW

The Secretary argues Hickman engaged in multiple counts of protected activity and was the recipient of adverse action that was in part related to his protected activity. With regard to protected activity, the Secretary highlights four discrete instances. First, Hickman made a

hooks Hickman purchased were not purchased for the respirators and, in any event, were much too small to properly hold the respirators. Tr. 69-70.

corporate complaint about his direct supervisor, George Crane, after Crane directed a miner, Austin Roberts, to operate a truck the miner was not authorized to operate—an action that Hickman deemed unsafe. Second, Hickman sent a series of emails to upper management and HR, which brought up issues about problematic dusty areas, leaking equipment, being short-staffed in the BMC, and requesting that the miners he supervised were fit tested for respirators. Hickman also alleged that he felt he was being retaliated against in multiple emails to management. Third, Hickman refused to direct workers under his supervision to tamper with MSHA air sampling. Finally, Hickman filed his 105(c) complaint with MSHA on April 2, 2018, and told his then-supervisor, Robert Hogan, about it later that morning.

In addition to Hickman’s termination on April 11, 2018, the Secretary implies that his low performance evaluation and placement on the PIP after making a safety complaint constituted adverse action. The Secretary draws a nexus between the protected activities and adverse action by citing to the hostility Hickman received from upper management, proximity in time of the events, and upper management’s knowledge of Hickman’s various protected activities.

Respondent argues three points in its closing arguments. First, there was no protected activity with regard to the events that took place in July 2017 because Hickman was given a great midyear review and Huber dealt with Crane swiftly by demoting him. Second, Hickman’s emails to management regarding dust issues did not constitute protected activity because management was already aware of the problems by the time Hickman raised them. Finally, a remedy does not exist for Hickman at the temporary reinstatement stage because the discrimination complaint was filed before Hickman suffered any adverse employment action and Huber was only made aware of Hickman’s complaint after he was terminated.

In enacting the Mine Act, Congress indicated that the concept of protected activity in section 105(c) “be construed expansively to assure that miners will not be inhibited in any way in exercising any rights afforded by the legislation.” S. Rep. No. 95-181, at 36 (1977), *reprinted in Mine Safety and Health Act of 1977*, at 624 (1978). Protected activity under the Act can include making a complaint to an operator or its agent about unsafe equipment, *e.g.*, *Sec’y of Labor on behalf of Knotts v. Tanglewood Energy, Inc.*, 19 FMSHRC 833, 837 (May 1997), or a complaint about an alleged danger or safety or health violation. *E.g.*, *Sec’y of Labor on behalf of Davis v. Smasal Aggregates & Asphalt, LLC*, 28 FMSHRC 172, 175 (Mar. 2006) (ALJ). I conclude the Secretary has presented sufficient evidence at this temporary reinstatement stage to establish that Hickman engaged in multiple counts of protected activity. Hickman’s corporate complaint about Crane, the numerous safety complaints presented to upper management, his refusal to reassign his workers to manipulate dust exposure measurements, and even the 105(c) discrimination complaint itself all constitute protected activity under the Act.

It is also clear from the record that, at the very least, one adverse action was taken against Hickman when he was terminated on April 11, 2018.

Additionally, there is sufficient evidence at this stage to support a reasonable cause to believe there was a motivational nexus between Hickman’s protected activities and the adverse action. While the other circumstantial indicia of discriminatory intent outlined in *Chacon*—

coincidence in time, hostility toward the protected activity, and disparate treatment—are all present in varying degrees in this case, it is Huber’s knowledge of Hickman’s protected activities that is most striking. The Commission has held that an “‘operator’s knowledge of the miner’s protected activity is probably the single most important aspect of a circumstantial case’ and . . . ‘can be proved by circumstantial evidence and reasonable inferences.’” *Sec’y of Labor on behalf of Baier v. Durango Gravel*, 21 FMSHRC 953, 957 (Sept. 1999), *citing Chacon*, 3 FMSHRC at 2510. Here, Hickman provided extensive and detailed emails he sent to numerous members of upper management. This strongly supports a reasonable inference that upper management was not only aware of Hickman’s protected activities but also of the alleged retaliation, intimidation, and harassment Hickman endured.

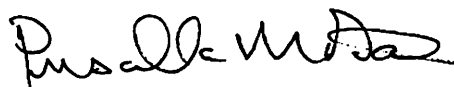
I also find that the evidence of Hickman’s alleged employment performance—an issue not directly articulated at hearing but suggested by Respondent’s witness’ testimony—is a matter left to a later proceeding on the merits of the discrimination complaint. In order to find that his past conduct was the sole role in the termination of Hickman, it would be necessary to make evidentiary findings on the affirmative defenses and to resolve conflicts in testimony between the Secretary’s witness and the Respondent’s witnesses. This is not the role of the Administrative Law Judge at this stage of the proceedings. Additionally, making such a finding here would be tantamount to deciding the discrimination case in chief which is not before me and would deprive the Secretary of the right to conduct discovery and present witnesses to rebut the defenses raised by this evidence.

In summary, all elements of the analytical framework discussed above are satisfied to the level required by the relevant statutes, rules, and case law precedent. The Secretary has carried his burden of presenting evidence to support a reasonable cause to believe that Hickman engaged in protected activity, and that there was a nexus between the protected activity and the adverse action of termination. I conclude that the complaint of discrimination is not frivolously brought.

IV. ORDER

For the reasons set forth above, Huber Carbonates, LLC is **ORDERED** to immediately reinstate Justin Hickman to the position he held on April 11, 2018, at his regular base salary of \$70,029 a year with restoration of all benefits to which he was then entitled.

Mr. Hickman’s reinstatement is not open-ended. It will end upon a final order on the underlying discrimination complaint case in chief. 30 U.S.C. § 815(c)(2). Therefore, the Secretary must promptly determine whether or not he will file a complaint with the Commission under section 105(c)(2) of the Act and so advise the Respondent. Otherwise, I shall entertain a motion to terminate this Order.



Priscilla M. Rae
Administrative Law Judge

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