

CCASE:
SOL (MSHA) V. KESSLER COALS
DDATE:
19800616
TTEXT:

Respondent further agrees to post a notice in a conspicuous place for a period of fourteen days. The terms of that notice to be as follows:

Pursuant to an agreement between the Mine Safety and Health Administration and Kessler Coals, Inc., Kessler Coal Company agrees that no person shall be discharged or in any manner discriminated against or caused to be discharged because such miner, representative of miners, or applicant for employment (1) has filed or made a complaint under or related to this act, including a complaint notifying the operator or the operator's agent or the representative of the miners, including a complaint notifying the operator or the operator's agent or the representative of the miners at the coal mine of an alleged danger or safety or health violation in a coal or other mine or; (2) is a subject of medical evaluations and potential transfer under a standard published pursuant to Section 101 or; (3) has instituted or caused to be instituted any proceeding under or related to this act or; (4) has testified or is about to testify in any such proceeding or; (5) because of the exercise by such miner, representative of miners, or applicant for employment on behalf of himself or others of any statutory right afforded by this act.

The settlement agreement between the parties further stipulates that the complainant will withdraw its charge of discrimination.

* * * * *

The settlement agreement has been reached as a result of protracted discussion this morning in the spirit of compromise and to resolve disputed claims without the necessity of protracted litigation.

That further, the withdrawal of the discrimination complaint indicates and * * * states the position that no further action on the events described in the complaint will be pursued by the Mine Safety and Health Administration. * * *

The one other point that might be clarified for the record is the adjustment of the disciplinary action. The matter involved in this case was a verbal warning. A subsequent written warning will now be adjusted to a verbal warning, according to the settlement agreement. * * *

[T]he subsequent warning has already been withdrawn, so that there is currently, pursuant to the settlement agreement, no verbal warning for unexcused absence.

~1443

At the conclusion of the hearing, this settlement agreement was read back by the court reporter and both parties expressed their satisfaction with its terms.

The agreement of the parties was approved from the bench and the proceeding was dismissed.

ORDER

The approval of the agreement by the parties and the dismissal of the proceeding are affirmed.

Forrest E. Stewart
Administrative Law Judge