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SOL (MSHA) V. ST. JOE ZINC  
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Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
ON BEHALF OF LESTER N. SIMMONS,  
COMPLAINANT

Complaint of Discrimination

Docket No. YORK 80-86-DM

Balmat No. 4 Mine

v.

ST. JOE ZINC COMPANY,  
RESPONDENT

FINAL ORDER

Pursuant to the attached decision and order, the parties have agreed that the amount of back pay due complainant is \$78.12 plus interest at 8% from December 7, 1979 to the date of payment. Respondent also requests reconsideration of the penalty on the ground that this was an inadvertent, first offense not likely to be repeated. Based on an independent evaluation and de novo review I find settlement of the back pay claim in the amount proposed is fair, equitable and in accord with the purposes and policy of the Act. I further find that in view of the mitigating circumstances shown the amount of the penalty should be reduced to \$50.00.

Accordingly, it is ORDERED that on or before Wednesday, December 24, 1980, respondent pay complainant the back pay agreed upon, \$78.12 plus interest at 8% to date of payment. It is FURTHER ORDERED that on or before the same date the operator pay a penalty of \$50.00 for the violation found.

Joseph B. Kennedy  
Administrative Law Judge