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SOL (MSHA) v. AARON MINING
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

SECRETARY OF LABOR MINE SAFETY AND HEALTH ADMINISTRATIVE (MSHA) ON BEHALF OF DIANNE MEULLER, COMPLAINANTS	Complaint of Discrimination Docket No. WEST 81-99-DM Aaron Crescent Valley Mine
v.	
AARON MINING, INC., RESPONDENT	

Appearances: Linda R. Bytof, Attorney, U.S. Department of Labor, San Francisco, California, for the complainants; Bruce T. Beesley, Esquire, Reno, Nevada, for the respondent.

DECISION APPROVING SETTLEMENT

Before: Judge Koutras

Statement of the Case

This is a discrimination proceeding initiated by the complainants against the respondent pursuant to section 105(c)(1) of the Federal Mine Safety and Health Act of 1977, charging the respondent with unlawful discrimination against the complainant Dianne Meuller for exercising certain rights afforded her under the Act. The matter was initially scheduled for hearing in Reno, Nevada on March 17, 1981, but the matter was continued at the request of both parties. A further continuance was granted when the parties advised me of a proposed settlement disposition of the controversy.

Discussion

On May 4, 1981, MSHA filed a motion to dismiss, complainant's consent, and the settlement agreement. In support of the motion to dismiss, MSHA states as follows:

> 1. On May 4, 1981, Dianne Meuller and Respondent Aaron Mining, Inc. entered into a settlement agreement resolving the issues raised by Complainant's discrimination complaint.
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> 2. By the terms of the agreement, Complainant, Dianne Meuller, agreed to withdraw her discrimination complaint filed with the Mine Safety and Health Review Administration on May 23, 1980.

3. Complainant, Dianne Meuller has authorized the Secretary of Labor to move for dismissal of the Complaint filed on her behalf, as evidenced by the attached statement of Complainant's consent.

Pursuant to the agreement between Complainant, Dianne Meuller and Respondent, Aaron Mining, Inc., the proposed settlement is as follows:

1. Respondent, Aaron Mining, Inc., agrees to pay Dianne Meuller the sum of $6,300.00 payable upon Ms. Meuller's execution and delivery of the agreement.

2. Respondent further agrees to expunge from Ms. Meuller's personnel records any and all reference to the circumstances relating to the subject complaint of discrimination.

3. Insofar as Respondent currently is not engaged in the operation of any mine within the State of Nevada, Respondent cannot reinstate Ms. Meuller to her former job as a blaster. However, if during the twelve (12) month period subsequent to the date of execution of the agreement by Respondent, Respondent commences to operate any mine within the State of Nevada, and directly employs at said mine individuals with duties similar to that of a blaster, Respondent further agrees to offer Ms. Meuller employment in said mine in any job with the same or similar duties and at the same rate of pay she was earning at the date of her termination from the Aaron Crescent Valley Mine.

4. Complainant, Dianne Meuller, agrees to withdraw the subject complaint of discrimination filed with the Mine Safety and Health Administration on May 23, 1980 and hereby authorizes the Secretary of Labor to dismiss the complaint filed with the Federal Mine Safety and Health Review Commission on her behalf.

5. Upon execution of the Settlement Agreement, the payment of $6,300.00, and the expungement of her personnel records, as aforesaid, Complainant agrees to and hereby releases Aaron Mining, Inc. from any and all liability arising out of her termination from Aaron Mining, Inc. on April 24, 1980, which is the subject of her Complaint referred to herein.

MSHA has submitted a copy of a consent statement executed by Ms. Meuller on May 4, 1981, which verifies that she voluntarily withdrew her complaint and entered into the settlement agreement with respondent. Under the circumstances, I see no reason why the motion should not be granted.

ORDER

In view of the foregoing, the proposed settlement

disposition of this matter is APPROVED and the Complainant's motion to dismiss is GRANTED.

George A. Koutras
Administrative Law Judge