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JACK PARKS V. L&M COAL
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April 27, 1982, I attempted to call Respondent's President, W. L. Lanningham, at his home (there was no listing for the corporation). My Secretary talked to a person who identified herself as his wife and asked Mr. Lanningham to call. No call was received. Under the circumstances, I find that Respondent was notified of the hearing. No one appeared on his behalf.

Evidence was received at the hearing and submitted subsequent to the hearing by Complainant on the issues of back pay, interest, legal expenses and costs of litigation. Based on the evidence submitted and on the entire record, I make the following decision on the amounts due Complainant:

BACK PAY

My order directed Respondent to pay Complainant full back wages from the date of discharge (May 9, 1975) to the date he is reinstated with interest thereon computed at the rate of 6 percent per annum. Respondent was permitted to deduct from the back wages due under the order, any wages Complainant received from other employment. Complainant is seeking back pay only for the period from May 9, 1975 to December 5, 1977.

1. Back pay, including vacation pay, holiday pay, unused sick leave pay and cost of living allowances which Complainant would have received for the period in question totals \$37,708.45. Interim earnings total \$7,318.69. The net back pay due Complainant is \$30,389.76.

2. Interest on the net back pay at the rate of 6 percent per annum totals \$10,756.42. My order directed that interest be paid at 6 percent although under the formula followed by the NLRB and by me in more recent decisions, the rate would fluctuate between 6 percent and 20 percent for the periods involved. I am using the rate of 6 percent per annum since my order specified payment of interest at 6 percent.

3. Complainant is entitled to have payments made to the United Mine Workers Health and Retirement Fund on his behalf as part of back wages. The amount that would have been paid for the period involved is \$6,629.12.

LEGAL EXPENSES

1. At the time the case was tried Complainant was represented by an attorney in private who was engaged by the United Mine Workers. When the UMW counsel took over the case directly, the UMW

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paid the private counsel the sum of \$5,329.46. UMW attorneys, based on their salaries, health and pension benefits, are entitled additionally to a total of \$1,820.77.

2. Complainant had costs in the amount of \$61.97 for attendance at the hearing in Abingdon.

ORDER

Respondent shall within 30 days of the date of this decision pay the following amounts pursuant to my order of November 9, 1977:

1. To Complainant Jack Parks the sum of \$41,146.18 as back wages and interest.

2. To Complainant Jack Parks and the United Mine Workers of America the sum of \$7,150.23 as attorneys fees and legal expenses.

3. To the United Mine Workers Health and Retirement Fund on behalf of Complainant Jack Parks the sum of \$6,629.12 as employer contributions to the Pension and Benefit Trusts.

4. To Complainant Jack Parks the sum of \$61.97 as incidental expenses of litigation.

IT IS FURTHER ORDERED that upon payment of the above amounts, Complainant will not be entitled to reinstatement, nor will he have any other claim against Respondent under the Coal Mine Safety Act of 1969, resulting from his discharge on May 9, 1975.

James A. Broderick
Administrative Law Judge