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SOL (MSHA) V. SHANNOPIN MINING
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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),
APPLICANT

Application for Review
of Discrimination

Docket No. PENN 81-209-D
MSHA Case No. PITT CD 81-10

v.

SHANNOPIN MINING COMPANY,
RESPONDENT

Shannopin Mine
Sol No. 12874

FURTHER FINDINGS OF FACT
AND
FINAL ORDER

On November 30, 1982, a decision was entered on the issue of a violation of section 105(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801, et seq. The decision deferred a final order pending submissions from the parties as to the appropriate relief to be granted based on the decision.

FINAL ORDER

Having considered the parties' submissions with respect to a proposed final order, and a post-decision motion by the United Mine Workers of America to intervene for the purpose of submitting a proposed order for relief, it is hereby ORDERED:

1. The UMWA's motion to intervene is DENIED as being untimely and lacking good cause on the merits.
2. The Secretary's proposed supplemental stipulations are APPROVED and hereby INCORPORATED as FURTHER FINDINGS OF FACT in this proceeding.
3. Based on the record as a whole, and on the statutory criteria for assessing a civil penalty for a violation of the Act, Respondent is ASSESSED a civil penalty of \$800 for its violation of section 105(c) of the Act as found in the above-mentioned decision; Respondent shall pay such penalty to the Secretary within 30 days from the date of this Order.
4. Respondent shall make payment to George Mateleska in the amount of \$392.40, with interest at the rate of 12 percent per annum accruing from March 5, 1981, until paid, to compensate him for the 5 days lost pay incurred as a result of Respondent's unlawful suspension of him.

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5. Respondent shall make payment to George Mateleska in the amount of \$235.44, with interest at the rate of 12 percent per annum accruing from December 16, 1981, until paid, to compensate him for his expenses in connection with this litigation.

6. Respondent shall expunge from its records all references to the suspension of George Mateleska which has been found herein to have been a violation of section 105(c) of the Act.

7. Respondent shall post a copy of the decision of November 30, 1982, and a copy of this Order on the mine bulletin board, or at such other conspicuous place where notices are normally posted for employees of the Shannopin Mine, and keep such copies posted, unobstructed and protected from the weather, for a consecutive period of at least 60 days.

WILLIAM FAUVER
JUDGE