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(UMWA) V. ANDY ONFICER & BCNR MINING
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

UNITED MINE WORKERS OF AMERICA
ON BEHALF OF LOUIS MAHOLIC,
COMPLAINANT

DISCRIMINATION COMPLAINT

Docket No. PENN 83-112-D

v.

Russellton Mine

ANDY ONFICER AND BCNR MINING
CORPORATION,
RESPONDENT

DECISION APPROVING SETTLEMENT

Before: Judge Koutras

Statement of the Case

This case involves a discrimination complaint filed on March 9, 1983 by the complainant against the respondents pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977. The respondents contested the allegations, and the matter was scheduled for a hearing in Washington, Pennsylvania, Wednesday, August 24, 1983 at 9:30 a.m. However, on the representations by complainant's counsel on August 22, 1983, that the parties had reached a settlement of the dispute, the hearing was cancelled and continued. The UMWA now files a motion to approve the settlement.

The complainant, president of Local Union 3506, avers that he was a representative of the miners for purposes of section 103(f) of the Act, and he alleges that he was suspended by the respondent for insisting on being permitted to exercise his walkaround rights during a MSHA inspection on September 24, 1982. Although he was later allowed to return to work, he further alleges that he was threatened with suspension if he refused to work at any later date. He further states that a complaint was filed with MSHA on November 1, 1983, and that by letter dated February 7, 1983, MSHA informed him that on the basis of their investigation, no violation of the anti-discrimination provisions of section 105(c) had occurred.

Discussion

In seeking dismissal of this complaint, the UMWA states Mr. Maholic has informed them that all references to the events of September 24, 1982, which triggered the filing of this case have been removed from his personnel file. In addition, the UMWA has submitted a copy of a draft letter from mine management to Mr. Maholic informing him of this action, as well as the assurance by mine management that it intends to provide authorized miners' representatives with the opportunity to accompany the Secretary or his authorized representative during physical inspections of the mine.

Conclusion and Order

It would appear to me that this dispute has now been resolved to the mutual satisfaction of the parties. Accordingly, the UMWA's motion to approve the settlement is GRANTED, and IT IS ORDERED that this case be DISMISSED.

George A. Koutras
Administrative Law Judge