

CCASE:  
ROGER WELCH V. CHESTNUT COAL  
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Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges

ROGER LEE WELCH, COMPLAINANT v.	DISCRIMINATION PROCEEDINGS  Docket No: WEVA 84-5-D
CHESTNUT RIDGE COAL COMPANY, RESPONDENT	MORG CD 83-22
JAMES H. HARVEY, COMPLAINANT v.	Docket No: WEVA 84-6-D  MORG CD 83-22
CHESTNUT RIDGE COAL COMPANY, RESPONDENT	
MELVIN E. DUNITHAN, COMPLAINANT v.	Docket No: WEVA 84-7-D  MORG CD 83-22
CHESTNUT RIDGE COAL COMPANY, RESPONDENT	
RALPH R. LUCAS, COMPLAINANT v.	Docket No: WEVA 84-8-D  MORG CD 83-22
CHESTNUT RIDGE COAL COMPANY, RESPONDENT	Potomac Manor No. 1 Mine

DECISION

Appearances: Mark D. Moreland, Esq., Romney, West Virginia,  
for Complainants  
Thomas R. Lanager, Esq., Elk Garden, West Virginia,  
for Respondent

Before: Judge Moore

The above case came on for hearing in Cumberland, Maryland, on May 15, 1984. Complainants' counsel Mr. Mark D. Moreland called as his first witness Mr. Thomas Lanager who is the president and majority stockholder of defendant Chestnut Ridge Coal Company. Mr. Lanager testified for approximately 2 3/4 hours, and while he freely admitted that he had, on occasion,

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committed violations of certain regulations, Mr. Moreland was unable to impeach him or shake his story to the effect that the only reason that the four complainants had been laid off was economics. They had all indicated that they could not work for less than \$12 an hour and he could not afford to pay that much for the type of work they did. He had put a substantial amount of his own money into the company to try to keep it from going under. He could not convince the men that the company was losing money and could not afford to pay \$12 an hour when there were others willing to do the same work for eight dollars an hour.

After calling five more witnesses, none of them being a complainant, Mr. Moreland announced that after listening to the approximate five hours of testimony and consultations with his clients, it was apparent to him that there had been a failure in communication between the parties as well as misunderstandings, and that he no longer wished to prosecute the cases. On the basis of the testimony I had heard, I approved his action and announced that the four cases would be dismissed.

I have withheld issuing this decision pending receipt of the transcript. Inasmuch as the transcript has been received, I hereby RATIFY the decision made at the hearings, and these cases are accordingly DISMISSED.

Charles C. Moore, Jr.  
Administrative Law Judge