

CCASE:
DONALD BEATTY V. HELVETIA COAL
DDATE:
19860107
TTEXT:

Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

DONALD C. BEATTY, JR.,
COMPLAINANT

DISCRIMINATION PROCEEDING

Docket No. PENN 84-205-D

v.

Lucerne No. 8 Mine

HELVETIA COAL COMPANY,
RESPONDENT

SUPPLEMENTAL DECISION

Appearances: Earl R. Pfeffer, Esq., Washington, D.C.,
for Complainant;
William M. Darr, Esq., Indiana, Pennsylvania,
for Respondent.

Before: Judge Broderick

I issued a decision on the merits in this case on October 22, 1985 (corrected October 24, 1985). In that decision, I found that Complainant established that he had been discriminated against by Respondent in violation of section 105(c) of the Federal Mine Safety and Health Act of 1977 (Act). As part of the relief, I ordered Respondent to pay the costs and expenses (including attorney's fees) reasonably incurred by Complainant in connection with the institution and prosecution of this proceeding. I directed counsel to confer and attempt to agree on the amount due Complainant as costs and expenses.

Complainant has submitted a statement of attorney's fees in the total amount of \$6230. Of this amount, \$4250 is claimed for Earl R. Pfeffer, Esq., \$60 is claimed for Mary Lu Jordan, Esq., and \$1920 is claimed for the United Mine Workers of America (UMWA), by whom Pfeffer and Jordan are employed. \$441.12 is claimed by the UMWA for the attorney's travel expenses. Respondent does not object to these amounts.

Complainant has also filed a claim in the total amount of \$495.72 for "briefing" of Donald Beatty, Tom Grove and Robert Schork on May 14, 1985, and their appearance at the hearing May 15, 1985. Beatty is the Complainant. Grove and Schork testified on his behalf. The Local Union apparently paid them \$167.12, \$165.99, and \$162.61 respectively. There is no explanation of the amounts claimed. I will allow reimbursement of the statutory witness fees for the three individuals (\$30 per day).

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Therefore, IT IS ORDERED that Respondent shall pay the following costs and expenses in satisfaction of paragraph 3 of the Relief in my decision issued October 24, 1985:

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|-----------------------------|-----------|
| 1. To Earl R. Pfeffer, Esq. | \$4250.00 |
| 2. To Mary Lu Jordan, Esq. | 60.00 |
| 3. To UMWA | 2361.12 |
| 4. To Local 3548, UMWA | 90.00 |

James A. Broderick
Administrative Law Judge