

CCASE:
SOL (MSHA) V. RAVEN RED ASH COAL
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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),
ON BEHALF OF
EARL KENNEDY,
LARRY COLLINS,
COMPLAINANTS

DISCRIMINATION PROCEEDING

Docket No. VA 85-32-D
MSHA Case No. NORT CD 84-7

Mine No. 1

v.

RAVEN RED ASH COAL
CORPORATION,
RESPONDENT

AMENDED DECISION

Appearances: Sheila K. Cronan, Esq., Office of the Solicitor,
U.S. Department of Labor, Arlington, Virginia,
for the Complainants;
Daniel R. Bieger, Esq., Copeland, Molinary &
Bieger, Abingdon, Virginia, for the Respondent.

Before: Judge Koutras

By motion filed April 23, 1986, the Secretary requests that I reconsider my decision of April 7, 1986, with respect to the applicable interest rate to be applied to the back pay awarded the complainants. The Secretary states that the interest rates for part of the back pay periods in question should be more than the 9 percent referred to in my decision. The Secretary seeks leave to compute and file the necessary interest computations to cure the minor defect in my decision.

Commission Rule 65, 29 C.F.R. 2700.65, authorizes the Judge to correct clerical mistakes and errors arising from oversights or omissions in his decision. I consider the subject matter of the Secretary's request to fall within the rule. Accordingly, the Secretary's motion IS GRANTED, and my decision is amended as follows:

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1. The words "at a rate of 9 percent until it is paid" are deleted from lines 2 and 6, on page 40, and they are replaced with the words "in accordance with the Commission-approved formula set out in Secretary ex rel. Bailey v. ArkansasÄCarbona Co., 5 FMSHRC 2042, 2050Ä2054 (Dec., 1983)."

2. The following new paragraph is inserted between the second and third full paragraphs on page 40, as follows:

Complainant shall submit a statement no more than 30 days after the date of this Amended Decision stating the total amount of interest that is due on the back wage award to each employee, to the date of this Amended Decision. Respondent shall have 10 days from the date the statement is submitted to reply.

3. The second full paragraph on page 40 is replaced with the following:

This order is not final until the exact amount due is determined and ordered to be paid.

4. Footnote 1 on page 40 is deleted.

The Amended Decision should now read as follows:

ORDER

The respondent IS ORDERED to pay the complainant Earl Kennedy the sum of \$2,170, less any amounts normally withheld pursuant to state and Federal law, with interest to the net back-pay award in accordance with the Commission-approved formula set out in Secretary ex rel. Bailey v. ArkansasÄCarbona Co., 5 FMSHRC 2042, 2050Ä2054 (Dec., 1983).

The respondent IS ORDERED to pay the complainant Larry Collins the sum of \$10,600 less any amounts normally withheld pursuant to state and Federal law, with interest to the net back-pay award in accordance with the Commission-approved formula set out in Secretary ex rel. Bailey v. ArkansasÄCarbona Co., 5 FMSHRC 2042, 2050Ä2054 (Dec. 1983).

Complainant shall submit a statement no more than 30 days after the date of this Amended Decision stating the total amount of interest that is due on the back wage award to each employee, to the date of this Amended Decision. Respondent shall have 10 days from the date the statement is submitted to reply.

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This order is not final until the exact amount due is determined and ordered to be paid.

George A. Koutras
Administrative Law Judge