

CCASE:
LOCAL UNION 5817, DIST 17, U.M.W.A V. MONUMENT
MINING AND ISLAND CREEK COAL
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

LOCAL UNION 5817, DISTRICT 17,
UNITED MINE WORKERS OF
AMERICA (UMWA),
COMPLAINANT

COMPENSATION PROCEEDING

Docket No. WEVA 85-21-C

No. 1 Surface Mine

v.

MONUMENT MINING CORPORATION

AND

ISLAND CREEK COAL COMPANY,
RESPONDENT'S

ORDER OF DISMISSAL

Before: Judge Koutras

On June 16, 1988, the Commission issued an Order remanding this case to me for further adjudication, and the Order stated as follows:

On February 23, 1988, the United States Court of Appeals for the District of Columbia Circuit issued its decision in this matter, styled International Union, UMW v. FMSHRC, 840 F.2d 77 (D.C. Cir. 1988), reversing the Commission's decision (Local Union No. 5817, District 17, UMW v. Monument Mining Corp. and Island Creek Coal Co., 9 FMSHRC 209 (February 1987)), and remanding for further proceedings consistent with its opinion.

In accordance with the Court's order, we are obliged to remand this matter to the administrative law judge originally assigned for further proceedings including, if necessary, consideration of any remaining challenges by Island Creek Coal Company to the complaint for compensation that have not been previously waived.

On June 28, 1988, I issued an Order requesting the parties to inform me as to any further appropriate remedial action which may be required in this case pursuant to the Court's decision, and the Commission's remand Order of June 16, 1988. In response to my Order, the parties advised me of their mutual

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agreement that no issue remains on the question of the respondent's liability, and that the only remaining issues concern the amount of compensation due the miners, including interest, and costs of litigation.

The parties have now reached a mutually satisfactory agreement with respect to the compensation due the miners, including interest, and costs of litigation. The record reflects that all of the affected miners have been compensated and paid the amounts due them, including interest, and that the respondent has paid the UMWA for all costs incurred in pursuit of its court appeal. Under the circumstances, since the parties have reached a mutual agreement with respect to the final disposition of this case, I see no reason why it should not now be dismissed.

ORDER

In view of the foregoing, this case IS DISMISSED.

George A. Koutras
Administrative Law Judge