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SOL (MSHA) V. MID-CONTINENT RESOURCES
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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
ON BEHALF OF MANUEL L. GOMEZ,
COMPLAINANT

DISCRIMINATION PROCEEDING

Docket No. WEST 89-184-D
DENV CD 89-06

v.

Docket No. WEST 89-213-D
(Consolidated)

MID-CONTINENT RESOURCES,
INC.,

Dutch Creek Mine

RESPONDENT

DECISION

Appearances: Margaret A. Miller, Esq., Office of the Solicitor,
U.S. Department of Labor, Denver, Colorado,
for Complainant;
Edward Mulhall, Jr., Esq., Delaney & Balcomb,
Glenwood Springs, Colorado,
for Respondent.

Before: Judge Morris

These cases arise under the Federal Mine Safety and Health
Act of 1977, 30 U.S.C. 801 et seq., (the "Act").

Complainant has filed an application for reinstatement
pursuant to Commission Rule 44, 29 C.F.R. 2700.44 and he has
further filed a discrimination complaint pursuant to section
105(c) of the Act.

After notice to the parties a hearing on the merits
commenced in Glenwood Springs, Colorado on May 17, 1989.

At the commencement of the hearing the parties moved for the
consolidation of the above cases. Pursuant to Commission Rule 12,
29 C.F.R. 2700.12, the cases were consolidated.

The parties further advised the judge that they had reached
an amicable settlement of the issues in contest.

The terms of the proposed settlement are that complainant
will withdraw his application for temporary reinstatement and
further waive any reinstatement and dismiss his claims herein.
Further, in consideration thereof, respondent agrees to pay
complainant the sum of \$4,500.00.

Discussion

Complainant appeared with the Solicitor, his counsel, and stated that he understood the settlement and he further requested that the proposal be approved.

I find the settlement is proper particularly since all parties are in agreement.

Accordingly, I enter the following:

ORDER

1. The settlement agreement is approved.
2. The request for temporary reinstatement in WEST 89-184-D is dismissed.
3. The complaint of discrimination in WEST 89-213-D is dismissed.
4. Respondent is ordered to pay to complainant the sum of \$4,500.00 within 7 days of the date of this decision.

John J. Morris
Administrative Law Judge