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SOL (MSHA) V. BILL BRANCH COAL  
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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  
DONALD J. ROBINETTE,  
COMPLAINANT

DISCRIMINATION PROCEEDING

Docket No. VA 87-21-D  
NORT CD 87-5

Mine No. 8

v.

BILL BRANCH COAL COMPANY,  
INC.,  
RESPONDENT

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
ON BEHALF OF JOEY F. HALE,  
COMPLAINANT

DISCRIMINATION PROCEEDING

Docket No. VA 87-22-D  
NORT CD 87-7

Mine No. 8

v.

BILL BRANCH COAL COMPANY,  
INC.,  
RESPONDENT

ORDER

Subsequent to a hearing on the merits in these cases, a Decision was issued on September 29, 1988, finding that Respondent discriminated against Complainants in violation of section 105(c) of the Federal Mine Safety and Health Act of 1977. The Decision further ordered as follows: "Complainants shall file a statement, within 20 days of this Decision, indicating the specific relief requested. The statement shall be served on Respondent who shall have 20 days, from the date service is attempted, to reply thereto."

On November 1, 1988, the Secretary filed a statement pursuant to this Order. On November 14, 1988, Respondent filed a statement which indicated that discovery was needed to attempt to resolve the issues of relief. On November 21, 1988, in a telephone conference call both Parties indicated that dispositions would be taken on January 2, 1989. On January 31, 1989, in a conference call with both Parties, the attorney for the Secretary advised that Respondent

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had filed, in U. S. Bankruptcy Court, for reorganization pursuant to Title 11 of the U. S. Code. On February 22, 1989, proceedings before the Commission in the instant cases were stayed, pending a determination by the U. S. Bankruptcy Court that the automatic stay therein does not apply. Subsequently, the U. S. Bankruptcy Court issued an order relieving the Secretary from the provisions of the automatic stay. In a conference call on April 16, 1989, between the undersigned and attorneys for the Secretary and Respondent, the Parties agreed to discuss settlement of the issues of Complainants' relief. On April 24, 1989, the attorney for the Secretary advised that a settlement had been arrived at, and that a signed stipulation would be submitted within 30 days. On June 27, 1989, the attorney for the Secretary advised the undersigned that it had not yet received from Respondent a stipulation regarding back pay, although Counsel for Respondent had assured him that the stipulation would be mailed June 17, 1989.

In a telephone conference call between the undersigned and the attorneys for the Secretary and Respondent, it was indicated that Respondent mailed the stipulation to the attorney for the Secretary on June 29, 1989, and the latter indicated the stipulation would be filed on July 10, 1989.

The attorney for the Secretary filed the stipulation on July 13, 1989. The stipulation provides a fair resolution of the amount of Respondent's financial obligation to Complainants pursuant to my Order of September 29, 1988, contained in the Decision filed that date, and I adopt it herein.

It is therefore ORDERED that:

1. The Stay Order of February 22, 1989, is hereby lifted.
2. The liability of Respondent to Complainants is set forth in the stipulation filed July 13, 1989, and it ORDERED that the Parties shall abide by all its terms.
3. The Decision in this matter issued September 29, 1988, is now FINAL.

Avram Weisberger  
Administrative Law Judge