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Federal Mine Safety and Health Review Commission (F.M.S.H.R.C.)
Office of Administrative Law Judges

ED YANKOVICH, PRESIDENT
PAUL BRANCHISH, CHAIRMAN
ET AL.,
COMPLAINANTS

DISCRIMINATION PROCEEDING

Docket No. PENN 89-214-D

Dilworth Mine

v.

CONSOLIDATION COAL COMPANY,
RESPONDENT

ORDER OF DISMISSAL

Before: Judge Koutras

Statement of the Case

This proceeding concerns a discrimination complaint filed by several UMWA miners against the respondent pursuant to section 105(c)(3) of the Federal Mine Safety and Health Act of 1977. The complaint alleges that on or about October 5, 1988, respondent's mine management met with complainants Yankovich and Snyder, officials of Local Union 1980, who represent the miners, and announced the proposed implementation of "a new approach" to the reporting of work related accidents. The complaint alleges that after explaining the new approach to the local union officials, management called in approximately eight or nine employees, including the named complainants Stockdale, Adams, Azzardi, Kridle, and Reed, and informed them that they were considered "high risk" because of their previously reported accidents, and that a future reportable accident could subject them to discipline or discharge. The complainants assert that this new program inhibits miners from filing accident reports required to be submitted to MSHA, and is an interference with their rights under section 105(c) of the Act.

The respondent filed an answer to the complaint, and admitted that it had met with the complainants and informed them of management's intentions to adopt and implement "a safety awareness approach" with respect to reportable accidents. However, the respondent denied that it threatened any employees with discipline solely because of any accident reports that they may file, and denied that its program interfered with the

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statutory rights of the complainants. The respondent further asserted that its "safety awareness approach" has been permanently suspended and does not exist at the mine.

The respondent has now filed a motion to dismiss the complaint, and in support of its motion states that the issue raised by the complaint concerning its "safety awareness approach" is now moot because of an adverse arbitration decision which has caused mine management to permanently suspend the approach. The United Mine Workers of America (UMWA) has responded to the motion and states that it "would not oppose dismissal without prejudice to refile with the Commission should the complained of program be reinstated."

ORDER

The respondent's motion to dismiss IS GRANTED, and the complaint IS DISMISSED, without prejudice to its refiling by the complainants.

George A. Koutras
Administrative Law Judge