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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 FRED BARTLEY,  
COMPLAINANT

DISCRIMINATION PROCEEDING  
  
Docket No. KENT 89-102-DM  
  
Jenkins Quarry

v.

ADAMS STONE CORPORATION,  
RESPONDENT

SUPPLEMENTAL DECISION

Appearances: Thomas A. Grooms, Esq., Office of the Solicitor,  
U.S. Department of Labor, Nashville, Tennessee,  
for Complainant; David Adams, Esq.,  
Vice-President, Adams Stone Corporation,  
Pikeville, Kentucky, for Respondent.

Before: Judge Broderick

On October 18, 1989, I issued a decision on the merits in the above case in which I determined that the layoff of Fred Bartley by Respondent on March 29, 1988, was in violation of section 105(c) of the Mine Act. I ordered that he be paid back wages from the date of the layoff to the date of his reinstatement with interest thereon computed in accordance with the Commission decision in UMWA v. Clinchfield Coal Co., 10 FMSHRC 1493 (1988), as well as other benefits to which he was entitled and which were withheld during the time of his layoff. I directed that Respondent be given credit for the amount paid as back wages following the arbitrator's decision which reinstated him to his position as crusher operator. I directed the parties to attempt to agree on the amount due under my order, failing which, I directed the Secretary to submit a statement, within 20 days of the date of the decision, of the amount due. Respondent was given 10 days thereafter to reply. On October 23, 1989, the Secretary filed a statement of the amount claimed as back wages. Respondent has not replied to the statement.

I have considered the Secretary's statement, and the record in this proceeding, and on the bases thereof, IT IS ORDERED:

1. The findings, conclusions and orders of the decision issued October 18, 1989, are REAFFIRMED.

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2. Respondent shall, within 30 days of the date of this Supplementary Decision, pay to Complainant the sum of \$4,770.45 representing back wages still owing, vacation pay still owing and interest to October 16, 1989. From October 16, 1989 until the total amount is paid, Respondent shall pay 1.10 per day interest.

3. Respondent shall, within 30 days of the date of this Supplementary Decision pay to the Secretary a civil penalty in the amount of %581000 for the violation of section 105(c) of the Act.

4. This decision is FINAL.

James A. Broderick  
Administrative Law Judge