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SOL (MSHA) V. CANTU MATERIALS
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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 BOBBY COULTER,
COMPLAINANT

DISCRIMINATION PROCEEDING

Docket No. CENT 90-1-DM
MD 89-38

Sheppard Pit

v.

CANTU MATERIALS, INC.,
RESPONDENT

DECISION

Before: Judge Broderick

By order issued March 23, 1990, I found Respondent in default for failure to file an answer to the complaint of discrimination filed by the Secretary on behalf of Bobby Coulter, and for failure to respond to an order of show cause issued January 11, 1990.

Because of Respondent's default, I found that it had violated section 105(c)(1) of the Act in discharging Bobby Coulter on or about March 13, 1989, for activity protected under the Act. I ordered Respondent to expunge its records of any references to the discharge of Bobby Coulter, and to pay to the Secretary a civil penalty in the amount of \$600. I further ordered Respondent to pay Bobby Coulter full back pay and other benefits from the date of his discharge until the date he resumed full employment, with interest on the back pay calculated in accordance with the formula contained in 54 Fed. Reg. 2226 (January 19, 1989), and to pay Complainant the expenses associated with this litigation.

I directed the Secretary to submit a statement of the amount claimed as back pay with interest and the amount of litigation expenses. On May 14, 1990, the Secretary filed a Statement of Amount Claimed, a copy of which was served on Respondent May 10, 1990. No litigation expenses are claimed. Respondent has not replied to the Statement. Therefore, I accept the Secretary's statement of the amount of back pay less interim earnings from March 13, 1989, until he resumed full employment April 8, 1989.

ORDER

Therefore, IT IS ORDERED:

1. The findings and orders issued March 23, 1990, are AFFIRMED.

2. Respondent shall pay to Complainant within 30 days of the date of this decision the sum of \$912.31 representing lost wages and interest as follows:

Back wages 3/13/89 to 3/20/89	\$280.00
Withheld wages	217.00
Wage differential 3/20/89 to 4/7/89	206.25
Travel expenses	205.52
Interest 3/13/89 to 4/7/89	5.54
	\$912.31

James A. Broderick
Administrative Law Judge