

CCASE:  
WILLIAM KORHONEN (USWA) V. GEN. CHEMICAL  
DDATE:  
19910919  
TTEXT:

~1508

Federal Mine Safety and Health Review Commission  
Office of Administrative Law Judges  
The Federal Building  
ROOM 280, 1244 Speer Boulevard  
Denver, CO 80204

WILLIAM P. KORHONEN, USWA,  
ON BEHALF OF FOUR MINERS  
J. EDWARDS, B. COLEMAN,  
C. MAEZ, AND R. BOWERS,  
COMPLAINANTS

Docket No. WEST 90-267-DM  
RM MD 90-07

v.

General Chemical Mine

GENERAL CHEMICAL COMPANY,  
RESPONDENT  
DISCRIMINATION PROCEEDING

DECISION  
AND ORDER OF DISMISSAL

This case is before me on a discrimination complaint filed under Section 105(c) of the Federal Mine Safety and Health Act of 1977 (the Act). The complaint was filed by William P. Korhonen, President USWA, Local Union 1532 Miners Representative on behalf of four miners, Mr. John E. Edwards, Mr. Barrey W. Coleman, Mr. Casey L. Maez and Mr. Robert F. Bowers.

The Complainants allege that Respondent violated the provision of 30 C.F.R. 48.30 in its scheduling of rotating shift/surface production employees for MSHA required annual refresher training and in so doing discriminated against them in violation of 105(c) of the Act.

The initial complaint was filed with MSHA in April 1990. MSHA made an investigation and on review determined that the facts disclosed during the investigation did not constitute a violation of Section 105(c) of the Act.

Complainants then filed the discrimination complaint with the Commission. After the matter was set for hearing before me, the parties filed and requested approval of a settlement agreement which in pertinent part reads as follows:

Concurrent with the representing parties and affected miners signature to the following, and with Administrative Law Judge August F. Cetti's acceptance of same, all Discrimination Complaints under this matter are hereby withdrawn.

The Company, in its scheduling of rotating shift/surface production employees for MSHA required annual refresher training will afford such employees the option to receive such training:

~1509

(a) on the last day of the employee's normal evening shift schedule, provided that the employee agrees to obtain the training on day shift and further agrees to fulfill his or her scheduled shift for that given evening Or,

(b) during the employee's normal working hours when he or she is normally scheduled on day shift.

While it is understood that in certain instances, unforeseen circumstances may dictate training schedules other than that which an employee has chosen, it is also understood that the Company will exhaust the list of those qualified, by experience and contractual agreement, to fill the vacancy, if the Company desires to fill such vacancy, of the employee who has chosen to receive training during his or her normally scheduled day shift hours.

The proposed settlement provides that on the undersigned Administrative Law Judge's acceptance of the executed settlement all discrimination complaints under Docket No. WEST 90-267-DM are "withdrawn".

After careful review and consideration of the pleadings, arguments, and submissions in support of the proposed settlement of this case, I conclude and find that the proposed settlement disposition is reasonable, appropriate, and in the public interest. Accordingly, the settlement is accepted and this proceeding is DISMISSED.

August F. Cetti  
Administrative Law Judge