

CCASE:
UMWA (LOCAL UNION) V. CONSOLIDATION COAL
DDATE:
19930205
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

UNITED MINE WORKERS OF	:	COMPENSATION PROCEEDING
AMERICA ON BEHALF OF	:	
LOCAL UNION NO. 1588,	:	Docket No. WEVA 92-1006-C
Petitioner	:	
	:	Blacksville No. 1 Mine
	:	
v.	:	
	:	
CONSOLIDATION COAL COMPANY,	:	
Respondent	:	

PARTIAL DISMISSAL OF COMPLAINT

Before: Judge Barbour

In this proceeding, arising under Section 111 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 821, ("Mine Act"), the United Mine Workers of America ("UMWA") on behalf of Local Union 1588 seeks compensation under the first two sentences of Section 111 for miners idled by an order of withdrawal issued on March 19, 1992, pursuant to Section 103(k) of The Mine Act following an explosion that occurred the same day at Consolidation Coal Company's ("Consol") Blacksville No. 1 Mine. The UMWA also seeks compensation under the third sentence of Section 111 for miners idled by an order issued on March 22, 1992, pursuant to Section 107(a) of the Mine Act, for an allegedly imminently dangerous condition arising out of the same explosion.

Because counsels were involved in settlement negotiations concerning the UMWA's claims regarding the Section 103(k) order and because the Secretary's Mining Enforcement and Safety Administration (MSHA) had yet to complete its investigation of the explosion and consequently, had not issued any citations or orders alledging that the Section 107(a) withdrawal order closed the mine "for a failure of the operator to comply with any mandatory health or safety standards", the parties moved that the case be stayed, and I granted the motion.

The UMWA now seeks dismissal of its complaint with respect to its claims under the first two sentences of Section 111. The UMWA asserts that in essence the parties have settled these claims and that payment has been made to claimants in accordance with the terms of the agreement. The UMWA has attached a joint "Stipulation of Partial Settlement and Partial Release of Claims" to its motion. Counsel for Consol had advised me that he concurs with the UMWA's motion.

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ACCORDINGLY, the motion is GRANTED. The UMWA's complaint with respect to the first two sentences of Section 111 is DISMISSED. The proceeding involving its third sentence claims continues to be stayed pending a determination by MSHA whether citations or orders alleging violations of any mandatory health or safety standards should be issued in conjunction with the subject Section 107(a) order and the issuance by MSHA of such citations or orders.

David F. Barbour
Administrative Law Judge
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