

CCASE:
MSHA V. HELEN MINING
DDATE:
19930803
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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FALLS CHURCH, VIRGINIA 22041

SECRETARY OF LABOR, : DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA) : Docket No. PENN 93-179-D
ON BEHALF OF JOSEPH A. SMITH, :
Complainant : MSHA Case No. PITT CD 92-8
v. :
Homer City Mine
HELEN MINING COMPANY, :
Respondent :

SECRETARY OF LABOR, : DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA) : Docket No. PENN 93-180-D
ON BEHALF OF :
PAUL FORNEY, : MSHA Case Nos. PITT CD 92-09
RICK BUTLER, : PITT CD 92-10
LAWRENCE STOSSEL, : PITT CD 92-11
JOSEPH A. SMITH, : PITT CD 92-12
Complainants :
v. : Homer City Mine
HELEN MINING COMPANY, :
Respondent :

DECISION APPROVING SETTLEMENT

Before: Judge Melick

These cases are before me upon Complaints of Discrimination and Petitions for Assessment of Civil Penalty under the Federal Mine Safety and Health Act of 1977 (the Act). The parties have agreed to settle the cases on the following terms:

1. Respondent admits that a violation of Section 105(c) occurred as alleged in the Secretary's Complaints of Discrimination filed separately in each case. The admission that a violation occurred is solely for purposes of settlement of these proceedings under the Mine Act, and does not constitute an admission by Respondent that it violated any other law, rule, procedure or contractual provision.

2. Respondent has agreed to pay a civil penalty in the amount of \$500 for each case, totalling \$1,000. The fact that the Homer City Mine has been closed was considered a mitigating factor with respect to the amount of civil penalty.

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3. Superintendent Thomas Hofrichter agrees to attend a training session (not to exceed eight (8) hours of training), with MSHA to discuss the anti-discrimination provisions of the Mine Act, specifically walkaround rights and work refusals based on safety concerns. (The date, time and location of the meeting will be arranged by MSHA.)

I have considered the representations and documentation submitted in these cases, and I conclude that the proffered settlement is appropriate. It is also noted that none of the individual complainants have objected to this settlement.

WHEREFORE, the motion for approval of settlement is GRANTED, and it is ORDERED that Respondent pay a penalty of \$1,000 within 30 days of this order.

Gary Melick
Administrative Law Judge

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