

CCASE:
SOL (MSHA) V. BLACK DRAGON MINING
DDATE:
19930818
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

SECRETARY OF LABOR,	:	TEMPORARY REINSTATEMENT
MINE SAFETY AND HEALTH	:	PROCEEDING
ADMINISTRATION (MSHA)	:	
on Behalf of KIRBY SENTER,	:	Docket No. KENT 93-796-D
Applicant	:	
v.	:	PIKE CD 93-05
	:	
BLACK DRAGON MINING COMPANY,	:	No. 1 Mine
Respondent	:	

ORDER GRANTING MOTION TO WITHDRAW
REQUEST FOR HEARING
AND
ORDER OF TEMPORARY REINSTATEMENT

On August 13, 1993, Respondent who had filed a request for a hearing on the Secretary's Application for Temporary Reinstatement of Kirby Senter, orally moved to withdraw its request for hearing, based on the Secretary's representation that the complaint in this case would be filed on or before September 10, 1993.

Premises considered, the motion is GRANTED, and the hearing scheduled in Pikeville, Kentucky on August 18, 1993, is CANCELED.

I have considered the Secretary's application, including the affidavit of Lawrence M. Beeman, Chief of Technical Compliance and Investigation Division, MSHA, and determine that the miner's complaint to the Secretary was not frivolously brought.

Accordingly, IT IS ORDERED that Respondent shall, effective August 12, 1993, reinstate Kirby Senter to the position of a continuous miner operator at the Black Dragon No. 1 Mine or to an equivalent position with the same pay, duties and benefits he would receive had his employment not been terminated, and to continue him in that position pending action on the Secretary's complaint for permanent reinstatement.

James A. Broderick
Administrative Law Judge

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