

CCASE:
MELVIN FULTZ V. HARRIMAN COAL
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FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

MELVIN FULTZ, : DISCRIMINATION PROCEEDING
Complainant :
v. : Docket No. PENN 93-198-D
: MSHA Case No. WILK CD 93-02
HARRIMAN COAL CORPORATION, :
Respondent :

DECISION

Appearances: Melvin Fultz, 30 Spring Street, Tremont,
Pennsylvania, pro se;
Mark Semanchik, Esq., Lipkin, Marshall,
Boharad and Thornburg, Pottsville,
Pennsylvania, for Harriman Coal Corporation

Before: Judge Melick

At hearings, the Complainant herein, Melvin Fultz, failed to present any evidence that he had any employment or other relationship to the Respondent, Harriman Coal Corporation, or that such corporation caused any damages cognizable under Section 105(c)(1) of the Federal Mine Safety and Health Act of 1977, the "Act." (Footnote 1) In addition, while Mr. Fultz testified

1 Section 105(c)(1) of the Act provides as follows:

"No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act because such miner, representative of miners or applicant for employment has filed or made a complaint under or related to this Act, including a complaint notifying the operator or the operator's agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine, or because such miner, representative of miners or applicant for employment is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101 or because such miner, representative of miners or applicant for employment has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding, or because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by the Act."

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at hearing that the Rausche Creek Contracting Company (though not served as a party to this proceeding) failed to compensate him for time lost due to injuries sustained while working for said company he has not alleged any precipitating activity protected under Section 105(c)(1) of the Act. Accordingly, for the above reasons, this case is DISMISSED.

ORDER

Discrimination Proceeding Docket No. PENN 93-198-D is hereby DISMISSED.

Gary Melick
Administrative Law Judge

Distribution:

Melvin Fultz, 30 Spring Street, Tremont, PA 17981 (Certified Mail)

Mark Semanchik, Esq., Lipkin, Marshall, Boharad and Thornburg, One Norwegian Plaza, P.O. Drawer K, Pottsville, PA 17901 (Certified Mail)

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