

CCASE:  
SOL (MSHA) V. MEADOWS & LEANARD MINING  
DDATE:  
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SECRETARY OF LABOR, MSHA : DISCRIMINATION PROCEEDING  
on behalf of :  
LARRY J. HILDEBRAND, :  
Petitioner : Docket No. PENN 93-388-D  
 :  
V. :  
 : PITT CD 93-16  
 :  
MEADOWS & LEONARD MINING INC., :  
Respondent :

DECISION APPROVING SETTLEMENT

This case is before me pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977. The Solicitor has filed a motion to approve settlement of this matter along with a settlement agreement signed by both parties which states in relevant part:

1. Upon execution of this Agreement, Respondent will immediately post on the mine bulletin board, or in a conspicuous place where notices to employees are customarily posted, and maintain for a period of 14 consecutive days from the date of posting, the Notice attached to the settlement agreement. Said Notice is to be signed by a responsible official of the Respondent and the date of actual posting is to be shown thereon.

2. Respondent will comply with the terms and provisions of said Notice.

3. Respondent agrees to pay a civil penalty to the Federal Mine Safety and Health Administration, Office of Assessments, in the amount of \$2,500.00. Payment shall be made by check in six consecutive monthly installments commencing October 1, 1993, in the following manner:

The first five (5) installments shall be in the amount of \$400.00. The sixth (6) and final installment shall be in the amount of \$500.00. Each payment shall be mailed to MSHA no later than the 7th day of the month it is due. Should any two payments be made after the 7th day of the month it is due, the entire balance of all remaining amounts shall immediately become due.

4. Respondent further agrees to pay Applicant full compensation for lost wages which resulted in Applicant's being laid off, which amount is calculated to be \$5,670.00. Payment shall be made to Applicant (Larry J. Hildebrand) by check in six consecutive monthly installments of \$945.00, commencing October 1, 1993. Each payment shall be mailed to Applicant no later than the 7th day of the month it is due. Should any two payments be made after the 7th day of the month it is due, the entire balance of all remaining amounts shall immediately become due.

5. Respondent shall purge Applicant's personnel file of any disciplinary action taken by Respondent against him as a result of Applicant's actions or inactions of January 15, 1993, or any time thereafter as relates to this matter.

6. Applicant will, upon Respondent's execution and completion of performance of this agreement, withdraw his complaint of discrimination filed with the United States Department of Labor.

7. Applicant and Respondent hereby agree that as between themselves, this settlement agreement is a compromise of a disputed claim and shall constitute a final disposition of this matter. Applicant specifically agrees to relinquish any additional claims or causes of action arising under Section 105(c) of the Federal Mine Safety and Health Act of 1977 for the acts set forth in paragraph 5 of the Secretary of Labor's Amended Complaint filed August 25, 1993 in this matter.

8. Respondent's consent to enter into this settlement agreement does not constitute an admission by Respondent to any violation of the Mine Act or the regulations or standard promulgated thereunder, and Respondent denies that it committed any such violations. However, for purposes of this settlement, Respondent agrees and consents to a finding by the Commission of the existence of the violation, that the violation may be assessed as set forth herein. Nothing contained herein shall be deemed an admission by Respondent of a violation of the Mine Act or any regulation or standard issued pursuant thereto, in any judicial or administrative forum, by the United States Government, other than in an action or proceeding brought by the United States Government under the Federal Mine Safety and Health Act of 1977.

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9. Applicant and Respondent understand that each party is obligated to fully abide by the laws of the Commonwealth of Pennsylvania pertaining to wages and other benefits, as well as Federal and State tax laws associated therewith.

Based on the foregoing and noting that both parties have signed the settlement agreement, I conclude that the proffered settlement is appropriate under the provisions of the Mine Act.

Accordingly, the motion for approval of settlement is GRANTED and it is ORDERED that this case be DISMISSED.

Paul Merlin  
Chief Administrative Law Judge

Distribution: (Certified Mail)

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