

CCASE:
SOL (MSHA) V. BLACK DRAGON MINING
DDATE:
19931028
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, : DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), : Docket No. KENT 93-954-D
on Behalf of KIRBY SENTER, :
Complainant : PIKE CD 93-05
v. :
: No. 1 Mine
BLACK DRAGON MINING COMPANY, :
Respondent :

DECISION APPROVING SETTLEMENT
AND DISMISSING PROCEEDING

Before: Judge Broderick

On October 27, 1993, the parties by counsel filed a joint motion for approval of a settlement of this discrimination proceeding brought by the Secretary on behalf of Kirby Senter. Mr. Senter also signed the motion.

On August 18, 1993, I issued an order that Respondent temporarily reinstate Kirby Senter effective August 12, 1993. Senter has been in receipt of economic reinstatement since that time. Counsel for the Secretary stated that the back wages to which Senter would be entitled if he were successful in his case would run from approximately January to April 1993.

The settlement agreement provides that Respondent shall pay Kirby Senter the sum of \$8000 and Senter will relinquish his rights and claims under the Mine Act against Respondent "or any other company owned by Todd Kiscaden." Respondent further agrees to expunge all references to matters being litigated in this matter from Senter's personnel records, and agrees that it will not give Mr. Senter a negative or unfavorable reference regarding his job performance at Respondent.

I have considered the motion in the light of the purposes of section 105(c) of the Act and conclude that it is in the public interest and should be approved.

Accordingly, IT ORDERED:

1. The settlement motion is APPROVED.

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2. The order of temporary reinstatement issued August 18, 1993, IS DISSOLVED;

3. Respondent shall pay to Kirby Senter the sum of \$8000 in settlement of his claims;

4. Respondent shall pay to the Mine Safety and Health Administration a civil penalty of \$200;

5. The hearing scheduled for November 4, 1993, in Pikeville, Kentucky, IS CANCELED;

6. Upon payment of the agreed-to amount to Kirby Senter and the civil penalty, this proceeding IS DISMISSED.

James A. Broderick
Administrative Law Judge

Distribution:

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