

CCASE:  
SOL (MSHA) V. F & E ERECTION  
DDATE:  
19931119  
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. WEST 93-106-D
on behalf of JOHN LACEK,	:	
Complainant	:	
	:	
v.	:	Cordere Mine
	:	
	:	
F & E ERECTION COMPANY,	:	
Respondent	:	

ORDER OF DISMISSAL

The Secretary of Labor has moved to withdraw his complaint in this discrimination proceeding on the grounds that the parties have resolved all issues relating to this matter and that Respondent has made proper payment to Mr. Lacek. The parties have also provided the undersigned with a copy of their stipulation of settlement and consent.

On November 8, 1993, the undersigned conducted a conference call with counsel for both parties to discuss the meaning and effect of paragraph 5 of the stipulation and settlement. That paragraph reads as follows:

In consideration of the payment provided for herein, John Lacek expressly waives reinstatement and agrees that F & E Erection Company shall not be obligated to employ him on any future job.

I hereby grant the motion to withdraw and dismiss this case on the understanding that paragraph 5 of the stipulation and settlement does not mean that if Mr. Lacek should in the future apply for employment with Respondent that Respondent is entitled to discriminate against him for the exercise of his rights under the Federal Mine Safety and Health Act. I also do not read this paragraph as waiving any rights Mr. Lacek or the Secretary of Labor may have in filing a complaint pursuant to section 105(c) of the Act if Respondent were to discriminate against Mr. Lacek in the future for exercising his rights under the Act at any time; past, present, or future.

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ORDER

The Secretary of Labor's motion to withdraw his complaint is granted and this case is dismissed.

Arthur J. Amchan  
Administrative Law Judge  
703-756-4572

Distribution:

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/jf