

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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February 4, 2015

UNITED STEELWORKERS LOCAL NO.
5114, ON BEHALF OF MINERS,
Applicant

v.

HECLA LIMITED,
Respondent

COMPENSATION PROCEEDING

Docket No. WEST 2012-466-CM

Lucky Friday Mine
Mine ID 10-00088

FINAL DECISION AND ORDER ON APPLICATION FOR COMPENSATION

Appearances: Susan J. Eckert, Esq., Santarella & Eckert, LLC, Littleton, Colorado, for Applicant;
Laura Beverage, Esq., and Karen Johnston, Esq., Jackson Kelly PLLC, Denver, Colorado, for Respondent.

Before: Judge Manning

This Compensation Proceeding is before me pursuant to section 111 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (the “Act”), upon an application for compensation filed by the United Steel Workers, Local 5114 on behalf of miners (“USW”) against Hecla Limited. On November 14, 2014, Hecla and USW filed simultaneous motions for partial summary decision in this matter. On December 23, 2014, I issued an order granting, in part, Hecla’s motion for partial summary decision.¹ *Steelworkers Local 5114 v. Hecla Limited*, 36 FMSHRC ____, No. WEST 2012-466-CM, 2014 WL 7464233 (Dec. 2014), *amended* at 37 FMSHRC ____, 2015 WL 226135 (Jan 5, 2015). That order, as amended, is incorporated herein by reference. In that order, I encouraged the parties to stipulate to the specific miners due compensation in accordance with my order and the amount of compensation due each miner.

On February 3, 2015, the parties filed a joint stipulation “Regarding Specific Miners Due Compensation and the Amount of Compensation” (the “Joint Stipulation”). The parties identified 19 miners who are entitled to compensation under section 111 of the Act based on my December 23, 2014 order. The name of each miner and the amount owed to each miner are identified in Joint Exhibit A, which is incorporated herein by reference. The amount of compensation was calculated by Hecla using “the miners’ regular rates of pay for

¹ My order was based upon the record developed at the hearing on two orders of withdrawal issued under section 103(k) of the Act that directly relate to this compensation proceeding. On October 29, 2014, I issued a decision in the contest cases for these withdrawal orders, *Hecla Limited*, 36 FMSHRC 2749 (Oct. 2014). With the parties’ agreement, the record from that hearing was incorporated by reference in this proceeding.

hours worked between December 6 and 14, 2011.” Joint Stipulation at 1. The total amount of compensation due excluding interest is \$13,150.48.

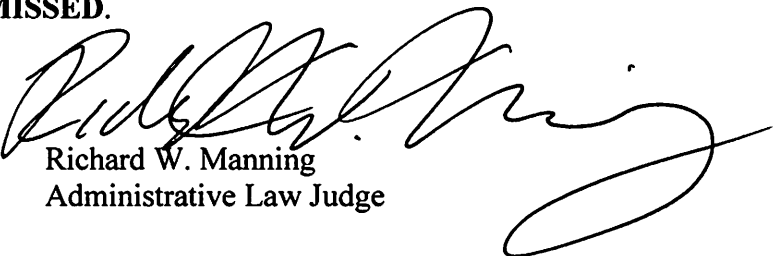
The parties stipulated that “[i]nterest on the total compensation amounts set forth in Joint Exhibit A will be calculated using the OPM guidelines for back pay annual interest rates by quarter based on IRS official rates pursuant to 5 U.S.C. § 5596 and 5 C.F.R. §§ 550.801-808. *See also Local 2274 v. Clinchfield Coal Co.*, 10 FMSHRC 1493, 1504-06 (Nov. 1988). The interest is to accrue up to the date of the Court’s entry of a decision and order in this matter.” Joint Stipulation at 2.

The parties further stipulated that “[u]pon entry of the Court’s decision and order, the operator will calculate the interest due as of that date and compensate the miners accordingly. Such compensation, which shall be subject to standard withholdings for taxes and shall be reported on a W2 Form, will be processed and paid to the miners in the first full pay period immediately following the date of the Court’s decision and order is entered and in a time period not to exceed fourteen days.” *Id.*

As stated above, the amount of compensation due under section 111 of the Act was calculated based on my order of December 23, 2014. Upon issuance of that order, I advised the parties not to file a petition for interlocutory review with the Commission if they disagreed with my order. I advised them that once I issued my final decision, the issues of fact and law discussed in my December 23, 2014, order would be ripe for review should either party wish to petition the Commission for review.

ORDER

I find that the terms of the Joint Stipulation comply with the requirements of section 111 of the Act. Hecla Limited is hereby **ORDERED** to pay \$13,150.48 plus interest to the miners listed in Joint Exhibit A in accordance with the parties’ Joint Stipulation. The parties **SHALL COMPLY** with all the terms and conditions set forth in the Joint Stipulation. Upon compliance with these terms, this proceeding is **DISMISSED**.


Richard W. Manning
Administrative Law Judge

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RWM