

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

601 New Jersey Avenue, NW, Suite 9500

Washington, DC 20001-2021

September 17, 2009

SECRETARY OF LABOR,	:	TEMPORARY REINSTATEMENT
MINE SAFETY AND HEALTH	:	PROCEEDING
ADMINISTRATION, (MSHA),	:	
on behalf of MARK GRAY,	:	Docket No. KENT 2009-1429-D
Complainant	:	BARB CD 2009-13
	:	
v.	:	
	:	
NORTH FORK COAL CORPORATION,	:	Mine ID 15-18340
Respondent	:	No. 4 Mine

AGREED SUPPLEMENTAL ORDER GRANTING ECONOMIC TEMPORARY REINSTATEMENT

This matter is before me upon an Application for Temporary Reinstatement, filed by the Secretary on August 13, 2009 (“the Application”), pursuant to section 105(c)(2) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815 (c)(2), for an order requiring North Fork Coal Corporation (“North Fork”) to temporarily reinstate Mark Gray to his former position as dayshift bolter at its No. 4 Mine, or to a similar position at the same rate of pay.

North Fork requested a hearing on the Application which I conducted in Wise, Virginia on September 2, 2009. By my Decision and Order dated September 8, 2009, I granted temporary reinstatement.

Thereafter, the parties negotiated the terms of economic temporary reinstatement, the terms of which have been agreed upon by the Secretary, North Fork and the miner, Mark Gray and are as follows:

1. North Fork shall economically reinstate Mark Gray, rather than place him back to work. This economic reinstatement begins on September 14, 2009. North Fork shall pay Gray the amount of \$1,179.70 per week on the scheduled payday, less all appropriate and necessary deductions. This amount is based on Gray’s hourly wage rate of \$23.50 per hour, and the average of 40 hours of regular time and 6.8 hours of overtime that he worked per week during the three months prior to his discharge. North Fork shall mail the paycheck to Gray’s home address at P.O. Box 465, Grays Knob, Kentucky 40829, on the same day that paychecks are issued to North Fork’s other miners.
2. As a part of this economic temporary reinstatement, North Fork shall provide health

insurance to Mark Gray as an employee. North Fork also shall provide any and all other employment benefits, including production and safety bonuses, that he would receive or be entitled to as a North Fork employee.

3. Economic temporary reinstatement of Mark Gray shall continue pending final order on any discrimination complaint which may hereafter be filed, unless otherwise ordered upon motion of a party.

WHEREFORE, it is ORDERED that North Fork ECONOMICALLY REINSTATE Mark Gray in accordance with this order.

Gary Melick
Administrative Law Judge
(202) 434-9977

Distribution: (By Certified Mail and Facsimile or E-Mail)

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