

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

601 New Jersey Avenue, N.W., Suite 9500

Washington, D.C. 20001

August 2, 2004

RAYMOND GEORGE, : DISCRIMINATION PROCEEDING
Complainant, :
 :
v. : Docket No. CENT 2004-98-D
 : DENV CD 2003-17
 :
24/7 SERVICE AND SUPPLY, INC., : Lee Ranch Coal Mine
Respondent : Mine ID No. 29-01879

AMENDMENT TO DECISION

Appearances: Raymond George, Gallup, New Mexico, *pro se*;
Kenneth Chaffin, Grants, New Mexico, on behalf of the Respondent.

Before: Judge Melick

Pursuant to Commission Rule 69(c), 29 C.F.R. §2700.69(c), the decision issued in this proceeding on July 30, 2004, is hereby amended by substituting corrected paragraph three on page eight of said decision to read as follows:

Under the circumstances I give the greater weight to Mrs. Chaffin's description of the critical conversation on August 7. As best synthesized it appears that Mr. George asked Mrs. Chaffin whether there was supposed to be air in the dragline and she responded "Yes, there was." She then asked him "Well, did you feel like it was unsafe?" and he responded "No, that he did not feel it was unsafe." Mr. George then said that "he didn't want to have a violation with MSHA" and Chaffin responded "if the mine was doing something wrong, you wouldn't have been violated for it, the mine would be" (Tr. 84). Finally Chaffin explained that since George told her that he did not feel it was unsafe she did not understand what he was even talking about. In this regard she testified "You know, why bring it up if it wasn't unsafe" (Tr. 84).

Gary Melick
Administrative Law Judge

Distribution: (Certified Mail)

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