

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041
August 4, 2000

SECRETARY OF LABOR, MSHA	:	DISCRIMINATION PROCEEDINGS
on behalf of	:	
DWAYNE H. HEMENWAY,	:	Docket No. LAKE 2000-41-DM
ALLEN P. BLUEMKE, and	:	Docket No. LAKE 2000-42-DM
ROBERT R. WILLIAMS	:	Docket No. LAKE 2000-43-DM
Complainants	:	
	:	NC MD 99-10
v.	:	NC MD 99-11
	:	NC MD 99-12
HIBBING TACONITE COMPANY	:	
Respondent	:	Mine ID 21-01600
	:	Hibbing Mine

DECISION

Appearances: Rafael Alvarez, Esq., U.S. Department of Labor, Office of the Solicitor, Chicago, Illinois for Complainants;
R. Henry Moore, Esq., Buchanan Ingersoll, Pittsburgh, Pennsylvania for Respondent.

Before: Judge Bulluck

These cases concern discrimination proceedings filed pursuant to Section 105(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815(c)(3). The Secretary, on behalf of Hemenway, Bluemke and Williams, alleges that the miners were unlawfully disciplined on March 5, 1999, for alleged misuse of their Article XIV (Basic Labor Agreement) rights, and seeks expungement of their personnel files of letters of reprimand and all references to the subject protected activity. Additionally, the Secretary seeks orders directing Hibbing Taconite to cease and desist discriminatory activities directed at all miners, posting of a notice of violation, and imposition of a \$3,000.00 civil penalty.

A hearing on the merits was convened on July 17, 2000, in Duluth, Minnesota, during the course of which the parties engaged in discussions and negotiated a settlement. Under the terms of the agreement, Hibbing Taconite is required to take the following action:

1. expunge the personnel files of Hemenway, Bluemke and Williams of letters of discipline;
2. delete any reference to the letters of discipline from the discipline log maintained in the computer record keeping system;

3. post the Motion to Dismiss and Approve Settlement and this Order for 30 days;
and
4. pay a civil penalty in the amount of \$100.00 for the discrimination violation.

The settlement was approved at hearing, and that determination is hereby confirmed.

ORDER

The settlement is appropriate and is in the public interest. **WHEREFORE**, the approval of settlement is **GRANTED**, and it is **ORDERED** that Hibbing Taconite comply with terms of the settlement agreement, as set forth above, and pay a civil penalty of \$100.00 within 30 days of the date of this decision. Upon Hibbing Taconite's compliance with all terms of settlement, these proceedings are **DISMISSED**.

Jacqueline R. Bulluck
Administrative Law Judge

Distribution: (certified mail)

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