

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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FALLS CHURCH, VIRGINIA 22041

January 15, 2002

UNITED MINE WORKERS OF AMERICA:	COMPENSATION PROCEEDING
LOCAL 1248, Dist. 2, on behalf of miners,:	
Complainant :	Docket No. PENN 2002-24-C
	:
v. :	Maple Creek Mine
	:
MAPLE CREEK MINING, INC., :	Mine ID 36-00970
Respondent :	

**ORDER**

By Motion to Dismiss filed on December 26, 2001, Maple Creek Mining, Incorporated (“Maple Creek”), seeks dismissal of the United Mine Workers’ (“UMWA”) Complaint for Compensation as untimely filed. The Complaint, filed November 28, 2001, seeks compensation of affected miners for the period of August 28, 2001, through October 8, 2001. Under Commission Rules, “[a] complaint for compensation under section 111 of the Act, 30 U.S.C. 821, shall be filed within 90 days after the beginning of the period during which the complainants are idled or would have been idled by the order that gives rise to the claim.” 29 C.F.R. § 2700.35. The deadline for filing was November 26, 2001, two days earlier than the Complaint was filed. UMWA filed its Response to Motion to Dismiss on December 26, 2001, asserting that the late filing was due to miscalculation of the deadline.

The Commission has entertained late filings upon a showing of good cause. *See, e.g., Original Sixteen to One Mine, Inc.*, 23 FMSHRC 1217 (November 2001). Moreover, pleadings of *pro se* litigants have always been held to less stringent standards than pleadings drafted by attorneys. *Id.* at 1218; *Rostosky Coal Co.*, 21 FMSHRC 1071, 1072 (October 1999). UMWA has shown good cause for its failure to meet the filing deadline, especially in light of having filed the Complaint three months subsequent to the underlying order, on the same day of the month.

**Accordingly**, Maple Creek’s Motion to Dismiss is hereby **Denied**, and the hearing in this matter shall be scheduled by separate Order.

Jacqueline R. Bulluck  
Administrative Law Judge

Distribution:

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