

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
601 New Jersey Avenue, N.W., Suite 9500  
Washington, DC 20001

October 6, 2006

SECRETARY OF LABOR,	:	TEMPORARY REINSTATEMENT
MINE SAFETY AND HEALTH	:	PROCEEDING
ADMINISTRATION (MSHA),	:	
on behalf of MARY JANE OSBON,	:	Docket No. SE 2006-319-DM
Complainant	:	SE MD 2006-07
	:	
v.	:	
	:	
R. E. GRILLS CONSTRUCTION CO.,	:	Ragland Quarry
Respondents	:	Mine ID 01-00027- 2XL

**DISMISSAL OF APPLICATION  
FOR TEMPORARY REINSTATEMENT**

Before: Judge Feldman

This case is before me based on an Application For Temporary Reinstatement filed on September 1, 2006, by the Secretary of Labor on behalf of Mary Jane Osbon pursuant to section 105(c)(2) of the Federal Mine and Safety Health Act of 1977, 30 U.S.C. § 815(c)(2). On October 4, 2006, the Secretary filed a Motion to Withdraw her application for the temporary reinstatement of Ms. Osbon. As grounds for her Motion, the Secretary represents that:

1. On Friday, September 29, 2006, R.E. Grills Constructions Company, Inc. (“Respondent”) voluntarily agreed to temporarily reinstate Ms. Osbon to the position she held as a haul truck operator, immediately prior to her discharge on June 6, 2006, at the same rate of pay, the same benefits, same number of hours worked and with the same duties assigned to her.
2. Respondent will temporarily reinstate Ms. Osbon at the Old Castle-Tiftonia Quarry in Tiftonia, Hamilton County, Tennessee, on October 9, 2006.
3. The Secretary’s Motion for Temporary Reinstatement is withdrawn without prejudice to the Secretary to bring a discrimination action against the Respondent in this matter.

4. Each party agrees to bear its own attorney's fees, costs and other expenses incurred by such party in connection with any stage of these proceedings including, but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended.

In view of the above, **IT IS ORDERED** that the Secretary's Motion to Withdraw **IS GRANTED**. **IT IS FURTHER ORDERED** that the subject temporary reinstatement application **IS DISMISSED** without prejudice to refile if the above terms are not satisfied, and without prejudice to the Secretary's subsequent filing of a related discrimination case on behalf of Ms. Osbon.

Jerold Feldman  
Administrative Law Judge  
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