

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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FALLS CHURCH, VIRGINIA 22041

October 11, 2000

UNITED MINE WORKERS OF AMERICA	:	COMPENSATION PROCEEDING
LOCAL UNION 2232, DISTRICT 20	:	
on behalf of MINERS,	:	Docket No. VA 1999-79-C
Applicants,	:	Mine ID 44-03795
	:	
v.	:	
	:	
ISLAND CREEK COAL COMPANY,	:	VP No. 8 Mine
Respondent.	:	

**DECISION ON REMAND**

Before: Judge Avram Weisberger

On July 31, 2000, the Commission issued a decision in this compensation proceeding, 22 FMSHRC 811 (July 2000), reversing my initial decision, 21 FMSHRC 1093 (Oct. 1999), and remanding for calculation of the compensation due miners for the 2 ½ hours of the shift during which they were idled by a Section 107(a) withdrawal order.

On September 29, 2000, pursuant to discussion with counsel in numerous conference calls, the parties filed a Joint Stipulation stipulating, inter alia, the names of the 41 miners due compensation, and the amount of principal due each, totaling \$1,539.61. In addition, Applicant seeks an award of interest due each miner totaling \$209.43. Respondent, in opposing this request, relies on the decision of the majority<sup>1</sup> of the commission in this matter, 22 FMSHRC supra, which awarded principal without interest in contrast to Commissioner Verheggen, who wrote an opinion concurring in result but asserting that an award should include interest.

In UMWA v. Clinchfield Coal, 10 FMSHRC 1493 (1988), the Commission established, based on, inter alia, its review of the legislative history of Section 111 of the Federal Mine Safety and Health Act of 1977, that interest should be awarded in cases where compensation is sought pursuant to Section 111, supra. UMWA v. Clinchfield Coal, supra, has not been overruled by any subsequent commission case, including, importantly, the commission decision in the instant case.

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<sup>1</sup>Commissioners Marks and Riley constituted the majority of the panel of the commission assigned to decide this matter, as Chairman Jordan and Commissioner Beatty recused themselves, and Commissioner Verheggen wrote a separate opinion concurring in result.

Accordingly, based on the controlling authority of UMWA v. Clinchfield Coal, *supra*, I find that the affected miners are, properly, to be awarded interest.

**Order**

It is **ORDERED** that the Respondent pay \$1,749.04, within 30 days of this decision, as delineated in Exhibit B of the parties' Joint Stipulation.

Avram Weisberger  
Administrative Law Judge

Distribution

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