

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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August 28, 2000

SECRETARY OF LABOR,	:	DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. WEST 2000-242-DM
on behalf of CURTIS STAHL,	:	
Complainant	:	MSHA Case No. WE MD 98-18
v.	:	
	:	Belle Vista Pit
A & K EARTH MOVERS, INC.,	:	
Respondent	:	Mine ID 26-02046

DECISION

Appearances: Brian W. Dougherty, Esq., Office of the Solicitor, U.S. Department of Labor, Nashville, Tennessee, and Christopher B. Wilkinson, Esq., Office of the Solicitor, U.S. Department of Labor, San Francisco, California, for Complainant; Richard L. Elmore, Esq., Hale, Lane, Peek, Dennison, Howard & Anderson, Reno, Nevada, for Respondent.

Before: Judge Hodgdon

This case is before me on a Complaint of Discrimination brought by the Secretary of Labor, acting through her Mine Safety and Health Administration (MSHA), on behalf of Curtis Stahl, against A & K Earthmovers, Inc., pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 815(c). A hearing was held in Sparks, Nevada on August 15, 2000. For the reasons set forth below, I approve the settlement agreement offered by the parties at the hearing.

The parties announced at the outset of the hearing that they had agreed to settle this case and all other pending cases between the Secretary and A & K.¹ With regard to Stahl, the agreement provides that: (1) A & K will pay him \$15,000.00 in complete satisfaction of any and all claims he has against the company; (2) Stahl waives his claim for permanent reinstatement; (3)

¹ The other cases are a discrimination complaint filed against the company by Eleuterio Jacinto, Case No. WE MD 98-18; a civil penalty case, Docket No. WEST 99-43-M; and two 110(c), 30 U.S.C. § 820(c), cases against A & K supervisors, Joe Hess, Docket No. WEST 2000-216-M, and Bryan Wade, Docket No. WEST 2000-200-M. With the exception of the discrimination case, all of the cases are pending before Judge Cetti.

A & K will amend Stahl's employment records to delete any reference to his termination and, on inquiry from third parties, will provide only his dates of employment; and (4) Stahl's temporary reinstatement terminates as of the date of the hearing. As part of the agreement, the Secretary also agreed to dismiss the civil penalty proceeding filed in connection with the discrimination complaint.

After assuring that all parties understood, and agreed to, the settlement, I accepted the agreement finding that it was both appropriate under the Act and in the public interest. (Tr. 8-11)

Order

Accordingly, the motion for approval of settlement is **GRANTED** and the parties are **ORDERED** to carry out their obligations as set out in the agreement. It is **FURTHER ORDERED** that the Order of Temporary Reinstatement, issued on February 18, 2000, in Docket No. WEST 2000-145-DM,² is **DISSOLVED**, *nunc pro tunc*, on August 15, 2000. It is **FURTHER ORDERED** that this proceeding is **DISMISSED** with prejudice.

T. Todd Hodgdon
Administrative Law Judge

Distribution: (Certified Mail)

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/nt

² *Secretary on behalf of Stahl v. A & K Earthmovers, Inc.*, 22 FMSHRC 233 (February 2000).