CCASE:

PITTSBURGH COAL V. MSHA

DDATE: 19791009 TTEXT:

FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION WASHINGTON, D.C.
October 9, 1979

PITTSBURGH COAL COMPANY (DIVISION OF CONSOLIDATION COAL COMPANY)

v. Docket No. PITT 76-123-P IBMA No. 77-6

SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

DECISION

This appeal was pending before the Interior Department Board of Mine Operations Appeals as of March 8, 1978. Accordingly, it is before the Commission for decision. 30 U.S.C.A. \$961 (1978).

In its petition for assessment of civil penalty filed under section 109(a) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. \$801 et seq. (1976) (amended 1977) ["the Act"], the Secretary alleged that Pittsburgh Coal Company, a division of Consolidation Coal Company, violated 30 CFR 75.1405. That mandatory standard requires, in pertinent part, that "All haulage equipment ... shall be provided with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment." The administrative law judge found the company had violated the regulation and assessed a civil penalty of \$5,000. The company appealed. For the reasons set forth below, we affirm the judge's decision.

On April 11, 1974, a fatal accident occurred at the company's Monitor No. 4 Mine. An employee of the company was fatally injured attempting to uncouple two haulage cars. At the mine, clearance differed along the two sides of the track. One side, the "tight side," had a clearance of 3 feet. The other side, the "wide side," had a clearance of 6 feet. All haulage cars had disconnect levers on the wide side. In addition, some, including the car the victim was attempting to uncouple, also had levers on the tight side. The parties stipulated that all of the uncoupling devices on the wide side were operable, but that some of the levers on the tight side were inoperable. When the victim attempted to uncouple the cars from the right side, and the uncoupling device did not work, the victim reached between the ends of the cars to manually disconnect them. Unaware that the victim was between the cars, the locomotive operator started the train and the victim was crushed.

The company argues that by equipping its mine cars with operable uncoupling devices on the wide side, it complied with the standard. We disagree. The purpose of the standard is to prevent miners who must couple and uncouple haulage equipment from subjecting themselves to injury by going between the ends of haulage cars. This purpose is best effectuated by requiring that all uncoupling devices be maintained in operable condition. An inoperable device might induce a miner to go between the ends of the haulage equipment to attempt manual uncoupling. Here, a miner died going between the ends of the haulage cars after unsuccessfully attempting to use an inoperable device. The standard is designed to prevent exactly this type of accident. The judge properly interpreted 30 CFR 75.1405, and his finding of a violation is affirmed.

The company also contests the penalty assessed as excessive. We have reviewed the company's arguments in this regard and find them without merit. We conclude that the penalty assessed for the violation was reasonable and in accord with the statutory criteria specified in the Act.

Accordingly, the decision of the judge is affirmed.