

CCASE:
MSHA (JOSEPH GABOSS) V. WESTERN FUELS-UTAH
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
WASHINGTON, D.C.
February 2, 1989

SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA),
on behalf of JOSEPH GABOSS

v. Docket No. WEST 86-24-D

WESTERN FUELS-UTAH, INC.

BEFORE: Ford, Chairman; Backley, Doyle, Lastowka and Nelson,
Commissioners

ORDER

BY THE COMMISSION:

In this discrimination case arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. (1982), the parties have filed a Joint Motion to Approve Settlement and Dismiss. For the reasons set forth below, the motion is granted.

The Commission issued its prior decision on the merits in this matter on August 15, 1988, reversing Commission Administrative Law Judge John J. Morris' original decision and remanding the case to him for further proceedings. 10 FMSHRC 953 (August 1988). In his Decision After Remand issued on October 24, 1988, Judge Morris concluded that complainant Joseph Gabossi had been discharged in violation of section 105(c)(1) of the Mine Act, 30 U.S.C. § 815(c)(1), and ordered Western Fuels-Utah, Inc. ("Western Fuels") to pay Mr. Gabossi \$39,560.06 in back pay and other expenses with interest. 10 FMSHRC 1462 (October 1988)(ALJ). (Gabossi had not sought reinstatement.) Western Fuels filed a petition for discretionary review, which the Commission granted in part and denied in part on December 2, 1988.

Western Fuels subsequently filed with the Commission a motion indicating that the parties had reached a settlement of the case and would be submitting a motion for approval of settlement and dismissal. On January 11, 1989, the Commission issued an order staying briefing and directing the parties to file their motion by January 31, 1989. The Joint Motion to Approve Settlement and Dismiss was received by the Commission on January 27, 1989. Attached to the parties' joint motion

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is a copy of the settlement agreement signed by the parties and by Gabossi.

Upon consideration of the settlement agreement, motion, and record, we approve the settlement and grant the motion to dismiss. Accordingly, our direction for review is vacated and this proceeding is dismissed.

Ford B. Ford, Chairman

Richard V. Backley, Commissioner

Joyce A. Doyle, Commissioner

James A. Lastowka, Commissioner

L. Clair Nelson, Commissioner

Distribution

Jerald S. Feingold, Esq.
Office of the Solicitor
U.S. Department of Labor
4015 Wilson Blvd.
Arlington, VA 22203

Richard S. Mandelson, Esq.
Baker & Hostetler
303 East 17th Avenue, Suite 1100
Denver, Colorado 80203

Administrative Law Judge John Morris
Federal Mine Safety & Health Review Commission
1244 Speer Blvd., Room 280
Denver, Colorado 80204