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STEVE LEWIS V. LEECO
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

STEVE LEWIS,
COMPLAINANT

v.

LEECO CORPORATION,
RESPONDENT

DISCRIMINATION PROCEEDING

Docket No. KENT 83-279-D

BARB CD 83-23

No. 29 Mine

DECISION AND ORDER AFFIRMING DISMISSAL

Before: Judge Lasher

The Complainant, Steve Lewis, failed to respond to Respondent's "Renewed Motion for Termination of Proceedings and Dismissal" filed on October 9, 1984, which sought dismissal for failure of the complaint to state a claim or cause of action. Pursuant to 29 C.F.R. 2700.10 Complainant had the right to file an opposition to such motion within 10 days. Complainant did not appear at the hearing on November 27, 1984, one of the purposes of which was to determine if indeed a valid cause of action did exist under the Federal Mine Safety and Health Act of 1977. Accordingly, upon Respondent's renewal of its motion on the record at the commencement of the hearing, such motion was granted.

It also appears that Complainant has abandoned the prosecution of his claim, in view of his having failed to respond to (1) the prehearing requirements contained in the Notice of Hearing herein, (2) a letter from Respondent's counsel, and (3) Respondent's motion to dismiss. Inasmuch as Complainant further failed to appear at the hearing without notice or explanation even though duly served with written notice thereof, this proceeding was dismissed from the bench on November 27, 1984, and that ruling is hereby AFFIRMED.

Michael A. Lasher, Jr.
Administrative Law Judge