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DAVID RATLIFF V. BETHENERGY MINES
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Federal Mine Safety and Health Review Commission
Office of Administrative Law Judges

DAVID RATLIFF,
COMPLAINANT

v.

BETHENERGY MINES, INC.,
RESPONDENT

DISCRIMINATION PROCEEDING

Docket No. KENT 85-108-D

PIKE CD 85-05

DECISION

Before: Judge Fauver

This proceeding has been docketed as a claim for relief under the discrimination provisions (section 105(c)) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801, et seq.

On March 25, 1986, Respondent moved to dismiss the Complaint on the grounds (1) that Complainant has not stated a claim for relief which can be granted under the Act, and (2) that Complainant has failed to comply with the prehearing requirements of the notice of hearing.

The complaint alleges that Respondent failed to grant Complainant a second exercise of super-seniority rights, to return from layoff, under a collective bargaining agreement between Respondent and the United Mine Workers of America.

Complainant has not responded to the motion to dismiss nor has Complainant filed a prehearing submission, which was due on March 26, 1986.

On April 3, 1986, a Show Cause Order was issued to Complainant, allowing him until April 21, 1986, to show cause, in writing, why this case should not be dismissed:

(1) for failure to state a claim for which relief can be granted under the Act; and

(2) for failure to comply with the prehearing requirements of the Notice of Hearing (Hearing Term dated January 15, 1986).

Complainant has not responded to the Show Cause Order.

I conclude that the Motion to Dismiss should be granted, on the ground that the Complainant fails to state a claim for which relief can be granted under section 105(c) of the Act.

ORDER

WHEREFORE IT IS ORDERED that the Motion to Dismiss is GRANTED, and this proceeding is DISMISSED.

William Fauver
Administrative Law Judge