

CCASE:
WILLIAM BINION V. KEYSTONE COAL MINING
DDATE:
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FMSHRC-FCV
MAY 13, 1988

WILLIAM G. BINION,
Complainant
v.

DISCRIMINATION PROCEEDING

Docket No. PENN 87-209-D
MSHA Case No. PITT CD 87-11

KEYSTONE COAL MINING COMPANY,
Respondent

Urling No. 2 Mine

DECISION APPROVING SETTLEMENT
AND ORDER OF DISMISSAL

Before: Judge Koutras

Statement of the Case

This proceeding concerns a complaint of alleged discrimination filed by the Complainant William G. Binion against the respondent pursuant to section 105(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq. The complainant alleged that he was transferred from his working section to another section out of retaliation "for my safety and health efforts for myself and other employees." Complainant maintained that he operated his roof-bolting machine at a safe speed, exercising necessary precaution, but that mine management threatened him with another change if he did not bolt faster.

The complainant filed his initial complaint with the Secretary of Labor, Mine Safety and Health Administration (MSHA), and upon completion of its investigation, MSHA advised the complainant that the information received during the investigation did not establish any violation of section 105(c) of the Act. Thereafter, the complainant filed a pro se complaint with the Commission, but subsequently retained counsel and the United Mine Workers of America (UMWA) to represent him in this matter.

The case was scheduled for a hearing on the merits on December 8, 1987, in Indiana, Pennsylvania. However, the hearing was subsequently continued and the matter was stayed after the parties informed me that they had mutually agreed to resolve their differences.

Discussion

On April 28, 1988, Mr. Binion's counsel filed a motion to withdraw the complaint in this matter. As grounds for the motion, counsel has submitted a sworn statement executed by Mr. Binion on May 2, 1988, and it states as follows:

I, WILLIAM G. BINION, the Complainant in the above captioned action, hereby authorize my attorneys, District #2 Legal Counsel, to withdraw the complaint in the above captioned case. I have amicably resolved this matter with my employer. My counsel has explained my rights, duties and obligations relative to this matter, and I am authorizing the withdrawal of the complaint as my free and voluntary act.

In view of the foregoing, it would appear to me that the parties have settled their differences and have reached an amicable resolution of the dispute which gave rise to the filing of the complaint in this matter. Under the circumstances, I see no reason why the Motion to Withdraw should not be granted.

ORDER

The complainant's Motion to Withdraw his complaint IS GRANTED, and this matter IS DISMISSED. My previously issued Stay Order of December 3, 1987, IS TERMINATED.

George A. Koutras
Administrative Law Judge

Distribution:

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