

CCASE:
SOL (MSHA) V. FRONTIER CONSTRUCTORS
DDATE:
19940812
TTEXT:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

SECRETARY OF LABOR,	:	DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 94-395-D
ON BEHALF OF,	:	MSHA Case No. MADI CD 93-11
FRANK SISK,	:	
	:	
Complainant	:	Baker Mine
v.	:	
	:	
FRONTIER-KEMPER CONSTRUCTORS,	:	
INC., d/b/a DELTA SHAFT	:	
CONSTRUCTION COMPANY,	:	
Respondent	:	
	:	
SECRETARY OF LABOR,	:	DISCRIMINATION PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. KENT 94-560-D
ON BEHALF OF,	:	MSHA Case No. MADI CD 93-11
FRANK SISK,	:	
	:	
Complainant	:	Baker Mine
v.	:	
	:	
FRONTIER-KEMPER CONSTRUCTORS,	:	
INC.,	:	
Respondent	:	

DECISION APPROVING SETTLEMENT

Before: Judge Hodgdon

These cases are before me on complaints of discrimination under Section 105(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 815(c). The Secretary, by counsel, has filed a motion to approve a settlement agreement. The settlement agreement, signed by all parties, provides that the terms of the agreement shall be specifically incorporated in this decision. Having considered the representations and documentation submitted, I conclude that the proffered settlement is appropriate under the Act and is in the public interest.

Accordingly, the motion for approval of settlement is GRANTED and it is ORDERED that:

- (1) Nothing contained in the Settlement Agreement shall be deemed an admission of liability or wrongdoing on the part of the Respondent.

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(2) The Respondent will expunge from its personnel files all records of, and references to, the Respondent's July 7, 1993, discharge of the complaining miner, Frank Sisk.

(3) The complaining miner, Frank Sisk, will be entitled to future employment with the Respondent in accordance with his experience, training, abilities and relative seniority.

(4) The Respondent shall pay the complaining miner the sum of \$40,000.00 in damages by check which shall be made payable to "Frank Sisk" and delivered to counsel for the Secretary for immediate disbursement upon the issuance of this decision.

(5) The Respondent shall pay a civil penalty in the sum of \$10,000.00 by check made payable to "USDOL-MSHA," which shall be delivered to counsel for the Secretary for immediate disbursement upon the issuance of this decision.

(6) Each party shall bear its own fees and other expenses incurred in connection with any stage of the proceedings.

Upon payment of the damages to Frank Sisk and the civil penalty to the Secretary, these proceedings are DISMISSED.

T. Todd Hodgdon
Administrative Law Judge

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