

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

October 21, 1996

GROVER NAPIER, : COMPENSATION PROCEEDING
Applicant :
v. : Docket No. KENT 96-298-C
: :
JOHN CHANEY TRUCKING CO., INC., : Mine ID 15-13936 F10
Respondent : Star Fire Mine

ORDER OF DISMISSAL

Before: Judge Melick

On June 17, 1996, the Applicant, Grover Napier, filed an application for compensation under Section 111 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et. seq., the "Act", based upon alleged idlement caused by the issuance of a "Section 104(d)(1)" citation. However because Section 111 of the Act authorizes entitlement to compensation only following the issuance of a withdrawal order under the Act, an order was issued to the Applicant on September 13, 1996, to show cause why this case should not be dismissed.

In response to the show cause order the Applicant submitted a copy of the "Section 104(d)(1)" citation which he maintains was the basis for this application for compensation. Under the circumstances, since the alleged idlement was not the result of the issuance of an order under the Act, this case must be dismissed.

Gary Melick
Administrative Law Judge

Distribution:

Grover Napier, General Delivery, Rowdy, Kentucky 41712

George J. Miller, Esq., Wyatt, Tarrant & Combs, 1600 Lexington
Financial Center, 250 West Main Street, Lexington, KY 40507

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