

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
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5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

February 26, 1999

SECRETARY OF LABOR, : TEMPORARY REINSTATEMENT
MINE SAFETY AND HEALTH : PROCEEDING
ADMINISTRATION, (MSHA), :
on behalf of **MORRIS THOMPSON** : Docket No. KENT 99-119-D
Complainant :
v. : PIKE CD 98-13
LODESTAR ENERGY, INC., : Shop Branch No. 2
Respondent : Mine ID 15-17939

DECISION APPROVING SETTLEMENT
OF APPLICATION FOR TEMPORARY REINSTATEMENT

Before: Judge Bulluck

On February 1, 1999, the Secretary of Labor filed an application for an order requiring Lodestar Energy, Inc., (ALodestar@) to reinstate temporarily Morris Thompson to his former position as a bulldozer operator at the Shop Branch No. 2 surface mine, or to a similar position at the same rate of pay, pending a hearing and final disposition of the case.

The application was supported by the declaration of Michael Belcher, Special Investigator for the Secretary's Mine Safety and Health Administration (AMSHA@), and a copy of Thompson's Discrimination Complaint filed with MSHA. In the application, the Secretary alleged that Lodestar suspended Thompson on July 31, 1998, then discharged him on August 3, 1998, because Thompson had filed safety complaints with MSHA.

The parties have filed a joint motion to approve settlement of the application for temporary reinstatement and to dismiss the case. Lodestar has agreed to withdraw its objection to the application for temporary reinstatement, and to temporarily reinstate Thompson to the position of first shift bulldozer operator at the Spradlin Branch surface mine, at the same rate of pay that he formerly received, pending final disposition of the case.

I have considered the representations and documentation submitted in this case, and I conclude that the proffered settlement is acceptable.

WHEREFORE, the settlement agreement is in the public interest and will further the intent and purpose of the Act, the motion for approval of settlement is **GRANTED**, and the complainant, Morris Thompson, having been temporarily reinstated on February 22, 1999, by Lodestar, it is **ORDERED** that this case is **DISMISSED**.

Jacqueline R. Bulluck
Administrative Law Judge

Distribution:

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