

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

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

August 2, 1996

SECRETARY OF LABOR, : DISCRIMINATION PROCEEDINGS
MINE SAFETY AND HEALTH :
ADMINISTRATION (MSHA), :
ON BEHALF OF :
CLETIS R. WAMSLEY, : Docket No. WEVA 93-394-D
: Hope CD 93-01, 93-01
:
ROBERT A. LEWIS, : Docket No. WEVA 93-395-D
: Hope CD 93-02
:
JOHN B. TAYLOR, : Docket No. WEVA 93-396-D
: Hope CD 93-04
:
CLARK D. WILLIAMSON, AND : Docket No. WEVA 93-397-D
: Hope CD 93-07
:
SAMUEL COYLE, : Docket No. WEVA 93-398-D
Complainants : Hope CD 93-11
v. :
MUTUAL MINING, INC., : Mutual Mine I
Respondent :

DECISION ON DAMAGES FOLLOWING REMAND

Before: Judge Amchan

On June 24, 1994, I found that Respondent had violated section 105(c) of the Act in discharging the Complainants on December 21, 1992. Subsequently, on November 30, 1994, I granted the Secretary of Labor's motion for summary judgment on the issue of damages. I ordered Respondent to pay the following amounts to the respective Complainants:

Cletis Wamsley	\$35,880.88
Clark D. Williamson	\$ 5,203.31
Samuel Coyle	\$19,667.81
John B. Taylor	\$23,132.15
Robert A. Lewis	\$46,825.73

16 FMSHRC 2371, 2372.

However, in accordance with Commission precedent at the time, I stated that Complainants must subtract any amounts received in unemployment compensation benefits from the back pay

award and return those amounts to Respondent, if such amounts had been paid, 16 FMSHRC 2372 n. 1.

In accordance with the decision of the Court of Appeals decision in Secretary of Labor v. Mutual Mining, Inc., 80 F.3d 110(4th Cir. 1996) and the ensuing Commission remand order, I hereby order Respondent to pay the amounts stated above in full. If any back-pay has been returned to Respondent pursuant to my November, 1994 decision, Respondent is ORDERED to pay these amounts back to the individual Complainants within 45 calendar days of this decision. Upon payment of these amounts these cases are dismissed.

Arthur J. Amchan
Administrative Law Judge

Distribution:

Robert S. Wilson, Esq., Office of the Solicitor, U.S. Department of Labor, 4015 Wilson Boulevard, Room 516, Arlington, VA 22203
(Certified Mail)

W. Jeffrey Scott, Esq., 311 Main Street, P.O. Box 608, Grayson, KY 41143 (Certified Mail)

Mr. Johnny Porter, Route 1, Box 700, Sandy Hook, KY 41171
(Certified Mail)

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