

CCASE:  
MSHA V. CAMBRIDGE MINING  
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FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION  
WASHINGTON, D.C.  
August 3, 1979

SECRETARY OF LABOR,                      Docket No. DENV 77-7-P  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),              IBMA No. 77-50

v.

CAMBRIDGE MINING CORPORATION

DECISION

This penalty proceeding arises under the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. §801-et seq. (1976) (amended 1977). On July 11, 1977, Administrative Law Judge Morehouse found that Cambridge Mining Corporation had violated 30 CFR §75.200, 1/ and assessed a civil penalty of \$50. On appeal, 2/ Cambridge argues that no violation occurred.

In finding a violation, the judge credited the testimony of the inspector who described a spalling condition along an unsupported rib in a working place. The judge found:

Here it is clear that the 40 or 50 feet in question in the first entry did have "loose ribs" as observed by the inspector and as evidenced by respondent's decision to place wire mesh and gunnite on the ribs and not have the men work in that area until the gunniting took place. "Working place" means the area of a coal mine in by the last open crosscut ... and the regulation cited above requires working places to be supported or otherwise controlled adequately to prevent persons from falls of the roof or ribs. It is true that respondent had made plans to adequately support the ribs with steel mesh and gunnite and had made the decision to have the men work in another entry until this was done. However, the

evidence does not support the conclusion that the men had been withdrawn or specifically instructed by respondent not to go into that area and there had been no danger signs posted. It, therefore, must be concluded that this particular area was not adequately controlled.

1/ Section 75.200 provides, in pertinent part:

... The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs.

2/ The appeal was pending before the Board of Mine Operations Appeals as of March 8, 1978. Accordingly, it is before the Commission for disposition. Section 301 of the Federal Mine Safety and Health Amendments Act of 1977, 30 U.S.C. §961 (1978).

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We conclude that the judge's determination that unsupported loose ribs existed in violation of 30 CFR §75.200 is supported by the evidence. Accordingly, the judge's decision is affirmed.