

CCASE:
GERALD BOONE (MSHA) V. REBEL COAL

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TTEXT:
FEDERAL MINE SAFETY & HEALTH REVIEW COMMISSION
WASHINGTON, D.C.

April 28, 1983
SECRETARY OF LABOR,
MINE SAFETY AND HEALTH
ADMINISTRATION (MSHA)
on behalf of Gerald D. Boone

v.

Docket No. WEVA 80-532-D

REBEL COAL COMPANY

ORDER

On December 6, 1982, the U.S. Court of Appeals for the Fourth Circuit issued an order granting the Secretary of Labor's petition for enforcement of a final order of the Commission. Secretary of Labor and Gerald Boone v. Rebel Coal Co., No. 82-1917, 4th Cir. In its order granting enforcement the Court stated:

The court notes that with respect to back pay after October 9, 1981, the [Commission's final] order prescribes a formula but not a fixed total amount. In the event that the parties fail to agree on the proper recovery, their dispute should be resolved by the Commission with the right of judicial review to any party aggrieved by the Commission's resolution of such dispute.

By letter dated April 7, 1983, counsel for the Secretary of Labor requested that the Commission reassume jurisdiction over the case and assign it to an administrative law judge for the purpose of resolving the back pay issue referred to by the Court. The letter asserts that "no monies have been paid to Mr. Boone" pursuant to the Commission's final order, and that no agreement has been reached with respect to the amount of further back pay owed. The letter indicates that counsel for the operator was mailed a copy of the request for reassertion of Commission jurisdiction, but no response from the operator to the request has been received.

In view of the Court's order granting enforcement, the request by the Secretary, and the fact that no response has been received,

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the request to reassume jurisdiction over this matter is granted. The case is remanded to the administrative law judge who previously heard this matter for expedited proceedings in compliance with the Court's order.

L. Clair Nelson, Commissioner

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Distribution

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