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Kentucky coal operator ordered to reinstate miner to job *Administrative law judge increases penalty proposed by MSHA*

ARLINGTON, Va. – The U.S. Department of Labor’s Mine Safety and Health Administration today announced that an administrative law judge with the Federal Mine Safety and Health Review Commission has ordered Cumberland River Coal Co. to reinstate miner Charles Howard to his former job and pay a civil penalty of \$30,000, increasing MSHA’s original proposed penalty of \$20,000.

Howard, who worked at Band Mill No. 2 Mine in Letcher County, Ky., suffered head injuries on the job in June 2010 and was discharged almost immediately upon his return the following May. Howard filed a complaint of discrimination with MSHA, alleging that he was fired for engaging in activity protected by the Federal Mine Safety and Health Act of 1977 on numerous occasions beginning in April 2007. Section 105(c)(2) of the Mine Act states that a miner cannot be discharged, discriminated against or interfered with in the exercise of his statutory rights because he has filed a complaint regarding a health or safety violation. MSHA initiated an investigation, and upon finding merit to the complaint, filed the case with the review commission.

According to court documents, Cumberland River Coal Co. refused to allow Howard to return to his job after being released to return to work by his treating physician. Instead, the mine operator sought the supplemental opinion of a doctor who, after changing his mind from his earlier diagnosis, determined that Howard could not return to work.

“There is no suggestion that Howard was terminated due to poor work performance and there was no incident that would have justified his termination,” wrote Administrative Law Judge Margaret A. Miller. “The only difficulty that [the mine operator] had with Howard was the fact that he continued to make safety complaints and continued to contact MSHA. Finally, not only was there open hostility against Howard, he was treated differently than other miners who had suffered a work-related injury.”

“Among the most critical provisions of the Mine Act – and one of my top priorities – is the protection of miners against retaliation for raising health and safety concerns,” said Joseph A. Main, assistant secretary of labor for mine safety and health. “This decision represents a victory not only for Mr. Howard but for all miners who speak out about hazardous conditions.”

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