Miners’ Rights and Remedies Under the Mine Act

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MINERS’ RIGHTS

• Every miner has the right to certain protections under the Mine Safety and Health Act of 1977

• A “miner” is someone who works at a mine
  – hourly hands
  – supervisors
  – contractors
  – office workers
**Mine Act § 103(f)**

- You have the right to have a representative of miners accompany MSHA inspectors during inspections
- Regulations set out at 30 C.F.R. Part 40
- Can have more than one miners rep at a site
- One miners rep can travel with the inspector with no loss of pay
- Two or more miners designate a miners rep in writing
- Miners rep does not have to be mine employee
**MINE ACT § 103(g)**

- **you have the right to get an inspection of the mine where there are reasonable grounds to believe that an imminent danger, a violation of the Act or a safety or health standard exists**
- some rules are set out at 30 C.F.R. Part 43
  - apply to complaints made by miners reps unless there is no miners rep
- anonymity of complaining miner is protected
- miners are protected against retaliation
- (800) 746-1553
MINE ACT § 111

- you have the right to be paid during certain periods when a mine or part of a mine has been closed by a withdrawal order
- § 104(d) order (unwarrantable failure)
- § 104(b) order (failure to abate)
- § 103(j) and (k) order (post-accident control)
- § 104(g) order (untrained miner)
- § 107(a) order (imminent danger)
MINE ACT § 105(c)

• you have the right to be protected against retaliation based on the exercise of rights under the Mine Act

(stay tuned – we’re going to talk about this one)
MINE ACT § 115

• you have the right to receive safety and health training

• 30 C.F.R. Part 46 or Part 48
• new miner training
• annual refresher training
• site-specific hazard training
• task training
A WHOLE BUNCH OF MINE ACT SECTIONS

- you have the right to be informed of, and to participate in, enforcement and legal proceedings under the Mine Act
  - § 105(d) citation and penalty contests
  - § 106(a) appeals of Commission decisions
  - § 107(e) imminent danger contests
  - § 113(d) appeals of ALJ decisions
TWO MORE IMPORTANT RIGHTS

• you have the right to make safety complaints to management
• you have the right to refuse to work in the face of a serious hazard
  – note, however, that if you decide to refuse to carry out an assigned task
    • you must communicate the basis for your refusal to your employer; and
    • your refusal must be based on a good faith belief that a hazard exists
DISCRIMINATION COMPLAINTS

Mine Act § 105(c)(1): No person shall discharge or in any manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner, representative of miners or applicant for employment in any coal or other mine subject to this Act … because of the exercise by such miner, representative of miners or applicant for employment on behalf of himself or others of any statutory right afforded by this Act.
RETALIATION – JUST … DON’T.
WHAT THEY CAN’T DO

• discharge or terminate
• lay off
• demote
• refuse employment
• reduce benefits, vacation, pay or bonuses
• change pay or hours
• threaten reprisal
• transfer you to a position that is less desirable or pays less
• interfere with the exercise of your rights
WHAT YOU HAVE TO DO

• file a complaint with MSHA **within 60 days** of the conduct you believe was discriminatory
  – providing as much specific information as you can about what protected activity you engaged in and
  – setting out what retaliation you experienced as a result of engaging in protected activity
WHAT MSHA HAS TO DO

• notify your employer about your complaint
• investigate your complaint of discrimination
• advise you within 90 days whether they agree that you have been unlawfully retaliated against
Okay, What Happens Next?

• Were you fired? Then …
  • if MSHA investigation determines your complaint is not frivolous, it will file a request for temporary reinstatement on your behalf
  • hearing within 20 days of request
  • decision within 7 days of hearing
  • temporary or economic reinstatement

• Do you still have your job? Then …
  • if MSHA investigation determines you have been unlawfully retaliated against, MSHA will file suit on your behalf
  • if MSHA finds you were not retaliated against, you can file suit on your own
AND IF I WIN? WHAT’S THE REMEDY?

- reinstatement
- back pay
- restoration of seniority
- attorneys fees
- civil penalties paid to MSHA
- “other appropriate relief”
MSHA TELLS YOU WHERE TO GO

booklet at:

www.msha.gov