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COMMONWEALTH OF KENTUCKY
OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION

KOSHRC #1410

SECRETARY OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

CARHARTT, INC.

RESPONDENT

DECISION AND ORDER

The Recommended Order of the hearing officer in this case, dated, February 12, 1987, is called for review pursuant to Section 47(3) of the Rules of Procedure of this Commission for the purpose of deleting the first issue of discussion on page 10 under the Conclusions of Law and correcting errors on page 13.

When a citation is not contested, the Hearing Officer is without jurisdiction to consider the merits of the violation and the violation's existence is found as a matter of law. General Power Systems, Inc., #765 (1981). Since the Respondent elected to contest the penalties only in this case, the Hearing Officer lacked jurisdiction to determine whether the violations actually occurred. Hence, the portion of the Recommended Order at pages 10 - 11 discussing whether the violations actually existed are deleted from the decision.

On page 13, point (2), the citation charging the serious violation of 29 CFR 1910.217 (b)(4)(i) was incorrectly vacated. The record does not reflect that the Secretary of Labor moved to vacate this citation. Because the citation was uncontested, the violations contained therein are found as a matter of law.

Also on page 13, the standard cited in point (3) and again in point (5) is incorrectly reported and is hereby amended to read 29 CFR 1910.217 (b)(8)(iii).

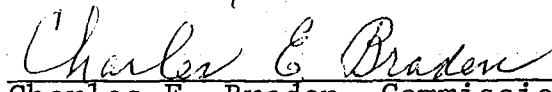
All other findings and conclusion of the Hearing Officer not inconsistent with this opinion are hereby AFFIRMED.



William H. Shields, Chairman



Carl J. Ruh, Commissioner



Charles E. Braden, Commissioner

DATED: March 20, 1987
DECISION NO. 1716

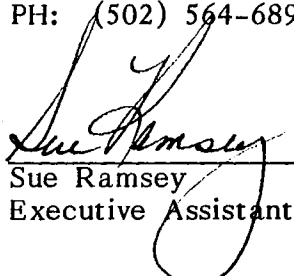
Copy of the foregoing Order has been served upon the following parties in the manner indicated:

Hon. Rose Ashcraft (Messenger Mail)
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Office of General Counsel
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Frankfort, KY 40601

Mr. Joe Cook, Plt. Mgr. (Cert. Mail #P337 117 145)
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This 20th day of March, 1987.

Kenneth Lee Collova
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Sue Ramsey
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