

COMMONWEALTH OF KENTUCKY  
OCCUPATIONAL SAFETY AND HEALTH  
REVIEW COMMISSION  
KOSHRC DOCKET NO. 2402-93

SECRETARY OF LABOR  
COMMONWEALTH OF KENTUCKY

COMPLAINANT

V.

BUTCH KAUFMAN CARPET CLEANING

RESPONDENT

\* \* \* \* \*

DECISION AND ORDER

We called this case for discretionary review of items 1 (a) and 1 (b) of citation 1 which allege that Butch Kaufman Carpet Cleaning (Kaufman) exposed its employees to excess amounts of carbon monoxide. In his recommended order our hearing officer dismissed citation 1, item 1, writing that the compliance officer "theorized" about the cause of the carbon monoxide which overcame the five Kaufman employees.

We disagree.

Mr. Kaufman testified the van containing the gasoline engine (which powered the carpet cleaning equipment) was parked "...close enough to get about three hundred feet of hose up five flights of steps." Transcript of the evidence (TE) 40. Then Mr. Kaufman said he could not know that carbon monoxide could travel up five flights of stairs. TE 45. He did have to admit, however, he knew that all doors from the basement garage up the five flights of stairs were open sufficiently to permit the laying of the hose. TE 45-46.

Mr. Kaufman worked till 11:30 that night, went home and returned the next morning at 5:30AM (TE 46-47) to find his men

suffering from the effects of the carbon monoxide. In fact Mr. Kaufman spent sufficient time getting his workers out of the area to require treatment for exposure to the gas himself.

Mr. Kaufman said he returned to the job early in the morning to see what had happened since he had anticipated his men would finish earlier in the night. He knew they had not finished for the night since his trucks and equipment are kept at his house when not in use. TE 47. The men had not returned so there must have been trouble. "I had a sense of fear." TE 47.

We find the engine in the company van (parked in the bank building parking garage) was running that night while the men worked five floors above. We find that a hose leading from the gasoline engine ran up five flights of stairs to the men cleaning carpet. We find that any doors between the men working and the gasoline engine were open a sufficient amount to permit the laying of the hose which also permitted the carbon monoxide gas to travel up the stairs to the Kaufman employees.

We find the gasoline engine to be the source of the carbon monoxide in this case for the following reasons:

1. the work took place in the PNC bank building in Louisville where many employees work on a daily basis (TE 38),
2. the gasoline engine was running that night,
3. the doors were open from the garage to the work area creating a direct link between the gasoline engine and the workers and
4. the workers were overcome with carbon monoxide requiring

hospitalization.

We define the hazard in this case as the presence of the running gasoline engine in the same building as the workers, connected by the flight of stairs with all doors open. We conclude that the physical link between the workers and the running engine within the same building proves the employer could with reasonable diligence have known of the hazard and taken steps to correct the problem. Mr. Kaufman himself knew when he went home that night the engine was running in the same building where his employees worked some three hundred feet away. He also knew the doors from the garage to his men were open at least enough for the hose.

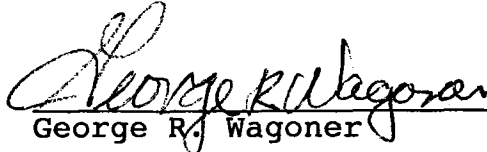
Even though no one was permanently injured or killed, that is just what could have happened without the timely intervention of Mr. Kaufman. Citation 1, item 1 is unquestionably a serious citation.

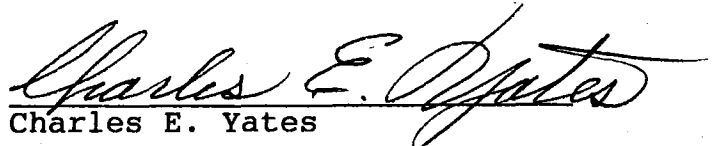
We therefore sustain citation 1, items 1 (a) and 1 (b) and the penalty of \$600.

We affirm that portion of our hearing officer's recommended order which is consistent with this decision.

It is so ordered.

This 21<sup>st</sup> day of October, 1994.

  
George R. Wagoner

  
Charles E. Yates

  
Donald A. Butler

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

Hon. Terry R. Anderson  
Counsel  
Kentucky Labor Cabinet  
1047 U. S. 127 South  
Frankfort, KY 40601

(Messenger Mail)

Mr. William E. Kaufman  
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1155 Dove Road  
Louisville, KY 40213

(First Class Mail)

This 21st day of October, 1994.



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