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430 (577)

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH

JULIAN M. CARROLL
GOVERNOR

REVIEW COMMISSION

MERLE H. STANTON
CHAIRMAN

IRIS R. BARRETT
EXECUTIVE DIRECTOR

104 BRIDGE ST.

CHARLES B. UPTON
MEMBER

FRANKFORT, KENTUCKY 40601

PHONE (502) 564-6892

JOHN C. ROBERTS
MEMBER

June 5, 1978

KOSHRC
Decision +
Order No. 577

KOSHRC #430

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

J. T. TODD USED CARS, INC.

RESPONDENT

DECISION AND ORDER OF
REVIEW COMMISSION

Before STANTON, Chairman; UPTON and ROBERTS, Commissioners.

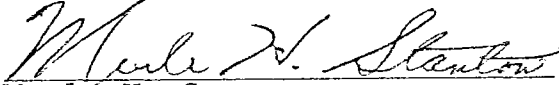
PER CURIAM:

A Recommended Order of Hearing Officer Paul Shapiro, issued under date of March 9, 1978, is presently before this Commission for review, pursuant to an Order of Direction for Review issued by the Commission.

Citations 1, 2, 3, and 8 were called to consider the penalties proposed for each. The Recommended Order sustained the citations as nonserious repeat violations and imposed a \$90.00 penalty for each. The Commission supports the finding of nonserious repeat violations but due to the minimal hazard involved the penalty for these citations shall be \$45.00 each.

The Commission has further considered the violations alleged and penalties proposed in Citations 4 and 5. The Hearing Officer has sustained a nonserious repeat violation and \$90.00 penalty for each of these citations. The standards cited are among those proposed for deletion by the Federal Government due to the lack of relationship to employee safety and health. The record establishes a repeat nonserious violation as charged. Since these standards were in effect at the time of inspection and issuance of the citation, and are still effective, the Hearing Officer's finding of violations must be sustained but the \$90.00 penalties for Citations 4 and 5 are hereby deleted.

Accordingly it is the unanimous Order of this Commission that the penalties for Citations 1, 2, 3 and 8 shall be \$45.00 each. The penalties of \$90.00 each for Citations 4 and 5 are hereby deleted. All other findings of the Hearing Officer not inconsistent with this opinion are hereby AFFIRMED.


Merle H. Stanton
Chairman

/s/ Charles B. Upton
Charles B. Upton
Commissioner

/s/ John C. Roberts
John C. Roberts
Commissioner

Dated: June 5, 1978
Frankfort, Kentucky

DECISION NO. 577

This is to certify that a copy of this Decision and Order has been served by mailing or personal delivery on the following:

Commissioner of Labor (Messenger Service)
Commonwealth of Kentucky
U. S. 127 South
Frankfort, Kentucky 40601
Attention: Honorable Michael D. Ragland
Executive Director for
Occupational Safety & Health

Honorable Kenneth E. Hollis (Messenger Service)
General Counsel
Department of Labor
U. S. 127 South
Frankfort, Kentucky 40601
Attention: Larry D. Hamfeldt
Assistant Counsel

Honorable Harold T. Hurt (Certified Mail #783151)
Hurt & Christopher, P.S.C.
P. O. Box 577
105 North Sixth Street
Murray, Kentucky 42071

J. T. Todd Used Cars, Inc. (Certified Mail #783152)
Attn.: J. T. Todd, President
Route #8, Box 860
Murray, Kentucky 42071

Honorable Michael D. Ward (Certified Mail #783153)
Hurt & Christopher Law Offices
1018 Main Street
Benton, Kentucky 42025

This 5th day of June, 1978.



Iris R. Barrett
Executive Director

Staple



430

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH

REVIEW COMMISSION

104 BRIDGE ST.

FRANKFORT, KENTUCKY 40601

PHONE (502) 564-6892

March 9, 1978

JULIAN M. CARROLL
GOVERNOR

IRIS R. BARRETT
EXECUTIVE DIRECTOR

*As ACC
Decision +
Order No. 533*

MERLE H. STANTON
CHAIRMAN

CHARLES B. UPTON
MEMBER

JOHN C. ROBERTS
MEMBER

KOSHRC # 430

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

J. T. TODD USED CARS, INC.

RESPONDENT

NOTICE OF RECEIPT OF
RECOMMENDED ORDER, AND
ORDER OF THIS COMMISSION

All parties to the above-styled action before this Review Commission will take notice that pursuant to our Rules of Procedure a Decision, Findings of Fact, Conclusions of Law, and Recommended Order is attached hereto as a part of this Notice and Order of this Commission.

You will further take notice that pursuant to Section 48 of our Rules of Procedure, any party aggrieved by this decision may within 25 days from date of this Notice submit a petition for discretionary review by this Commission. Statements in opposition to petition for discretionary review may be filed during review period, but must be received by the Commission on or before the 35th day from date of issuance of the recommended order.

Pursuant to Section 47 of our Rules of Procedure, jurisdiction in this matter now rests solely in this Commission and it is hereby ordered that unless this Decision, Findings of Fact, Conclusions of Law, and Recommended Order is called for review and further consideration by a member of this Commission within 40 days of the date of this order, on its own order, or the granting of a petition for discretionary review, it is adopted and affirmed as the Decision, Findings of Fact, Conclusions of Law and Final Order of this Commission in the above-styled matter.

Parties will not receive further communication from the Review Commission unless a Direction for Review has been directed by one or more Review Commission members.

Copy of this Notice and Order has been served by mailing or personal delivery on the following:

Commissioner of Labor (Messenger Service)
Commonwealth of Kentucky
Frankfort, Kentucky 40601
Attention: Honorable Michael D. Ragland
Executive Director for
Occupational Safety & Health

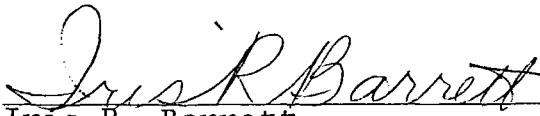
The Honorable Kenneth E. Hollis (Messenger Service)
General Counsel
Department of Labor
Frankfort, Kentucky 40601
Attention: Larry D. Hamfeldt
Assistant Counsel

Honorable Harold T. Hurt (Certified Mail #783041)
Hurt & Christopher, P.S.C.
P. O. Box 577
105 North Sixth Street
Murray, Kentucky 42071

J. T. Todd Used Cars, Inc. (First Class Mail)
Attn.: J. T. Todd, President
Route #8, Box 860
Murray, Kentucky 42071

Hon. Michael D. Ward, Attorney (First Class Mail)
Hurt & Christopher Law Offices
1018 Main Street
Benton, Kentucky 42025

This 9th day of March, 1978.


Iris R. Barrett
Executive Director

KENTUCKY OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION
KOSHRC #430

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

v.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDED DECISION

J. T. TODD USED CARS, INC.

RESPONDENT

STATEMENT OF THE CASE

This matter arises out of 12 citations issued against J. T. Todd Used Cars, Inc., hereinafter referred to as "Todd", by the Commissioner of Labor hereinafter referred to as the "Commissioner", for the violation of the Kentucky Occupational Safety and Health Act, hereinafter referred to as the "Act".

On September 15, 1977, an Industrial Hygienist for the Commissioner made an inspection of Todd's place of business in Murray. As a result of that inspection, the Commissioner issued 12 citations on September 26, 1977, charging Todd with 12 repeated nonserious violations of the Act and proposing a total penalty therefor of \$1260.00.

On October 18, 1977, and within 15 working days from receipt of the citations, Todd filed a notice with the Commissioner contesting the citations. Notice of the contest was transmitted to this Review Commission on October 24, 1977, and notice of receipt of the contest was sent by the Review Commission to Todd on October 25, 1977. Thereafter, on November 10, 1977, the Commissioner filed its Complaint, and on November 23, 1977, Todd filed its Answer. On November 30, 1977, the matter was assigned to a Hearing Officer and scheduled for hearing.

The hearing was held in Benton on December 17, 1977 pursuant to KRS 338.070(4). That section of the statute authorizes this Review Commission to rule on appeals from citations, notifications and variances to the Act, and to adopt and promulgate rules and regulations concerning the conduct of those hearings. KRS 338.081 further authorizes this Review Commission to appoint Hearing Officers to conduct its hearings and to represent it in this manner. The decisions of Hearing Officers are subject to discretionary review by the Review Commission on appeal timely filed by either party or upon its own motion.

The standards allegedly violated (as adopted by 803 KAR 2:020), the description of the alleged violations, and the penalties proposed for same are as follows:

1910.141(a) (4)(ii)	All sweepings, solid or liquid wastes refuse, and garbage were not removed in such a manner as to avoid creating a menace to health, and as often as necessary or appropriate to maintain the Workrooms and Storage Room in a sanitary condition.	\$90.00
1910.22(a)(1)	The passageways and service areas of the Workrooms and Store Room were not kept in a clean and orderly condition (tires, batteries, and debris cluttered floor).	\$90.00
1910.141(c) (1)(iii)	The restroom available to the employees was not maintained in such a manner as to prevent endangerment to the health of employees. (the toilet was covered with dirt and urine).	\$90.00
1910.141(c) (1)(v)	Toilet paper holder was not provided for the water closet in the Employee's Restroom.	\$90.00
1910.141(d) (2)(v)	In the Employee's Restroom, no receptacle was provided for the disposal of used towels.	\$90.00
1910.141(d) (2)(iv)	Individual handtowels, or sections thereof of cloth or paper, warm air blowers, or clean individual sections of continuous cloth toweling convenient to the lavatories were not provided in the Employee's Restroom.	\$90.00

1910.141(d) (2)(iii)	Hand soap, or similar cleansing agents were not provided in the Employee's Restroom.	\$90.00
1910.141(d)(1)	The hand washing facilities in the Employee's Restroom were not maintained in a sanitary condition.	\$90.00
1910.107(e)(2)	The quantity of flammable or combustible liquids kept in the Workroom, next to the Paint Spraying Room, was not the minimum required for operations and exceeded the necessary supply for one (1) day or one (1) shift. Bulk storage of portable containers of flammable or combustible liquids were not kept in a separate, constructed building detached from other important buildings, or cut off in a standard manner.	\$90.00
1910.107(e)(3)	Original closed containers, approved portable tanks, approved safety cans, or a properly arranged system of piping was not in use for bringing flammable or combustible liquids into the spray finishing room.	\$90.00
1910.107(g)(1)	Touch-up spray painting was being conducted outside of a predetermined spraying area (General Workroom, adjacent to the Paint Spraying Room).	\$90.00
1910.107(e)(4)	The withdrawal of flammable or combustible liquids from containers, and the filling of containers, including portable mixing tanks, was not done in a suitable room, or in a spraying area when the ventilation system was in operation (paint mixing done in area of General Workroom adjacent to Paint Spraying Room). Adequate precautions were not taken to protect against liquid spillage and sources of ignition. (an electrical outlet of the nonignition-proof-type was located near ignitable liquids and vapors).	\$270.00

All of the violations were cited as repeat of earlier violations cited by the Commissioner on July 22, 1977.

Upon a review of the pleadings, testimony and evidence herein, the following Findings of Fact, Conclusions of Law and Recommended Decision are hereby made.

FINDINGS OF FACT

Todd is in the business of purchasing used automobiles which it sells at wholesale. A large proportion of the automobiles Todd purchases are reconditioned by it in its shop in Murray. Todd's offices and shop are in a steel and concrete building approximately two years old. The principal workroom in the shop is a fairly large room, 50 feet by 75 feet with a 16 foot ceiling. There are four overhead doors leading into the room from the outside which are 12 feet by 12 feet and one overhead door which is 12 feet by 15 feet. The room is ventilated by a 24 inch exhaust fan in one wall. All the electrical wiring in the building is encased in conduits and all the water pipes are copper.

The shop also has a separate spray paint room. This room was constructed to meet applicable safety standards and is equipped with such items as explosion-proof light fixtures, explosion-proof ventilation equipment, piped in heat, and other safety equipment. On the day of the inspection this room met all safety and health requirements of the Act for spray paint rooms.

In spray painting, paint and paint thinner are mixed together in a spray gun. The paint and paint thinner used by Todd is stored on shelves and on a table located in the area of the general workroom just outside the spray paint room. The quantity stored in this area at the time of the inspection exceeded the supply necessary for one day's use. Paint thinner used in the spray room is either put directly into the spray gun from the containers in which it is stored or is put into an open receptacle or container and carried into the spray room.

Paint and paint thinner are also mixed in the area of the workroom where they are stored. There is an electrical outlet in this area which was not the nonignition type and adequate precautions are not taken to protect against spillage of the paint and paint thinner or against sources of ignition in the area when the paint and thinner are mixed. Since both

paint and paint thinner are flammable substances and since both emit flammable vapors, the failure to take precautions against spillage or sources of ignition presents a hazard of fire and possible explosion to employees working in the area.

Not all the spray painting is done in the spray room. Smaller jobs, such as blacking under a hood, or touch up painting, which normally take about 10 minutes, are done in the general workroom. This is more economical than doing it in the spray room, but it was not established that additional cost of doing these small jobs in the spray room would be financially prohibitive. Spray painting causes flammable vapors to be emitted which, if not exhausted by a proper ventilation system, present a hazard of fire or explosion.

Todd processes up to 25 automobiles a day through its business. Of this number, approximately 10 a day are reconditioned. Some of the automobiles that are reconditioned are given new tires. The old tires are stacked in a pile in the workroom and are later removed to the outside. Apparently, this removal is done intermittently, depending on the quantity accumulated and the availability of someone to do it. At the time of the inspection, there were several discarded tires in the general workroom.

In addition to the tires, there were also discarded batteries, food wrappers, soft drink cans, bottles and other debris in the shop. These were generally dispersed throughout the room, although in one area, near the office, there was a larger concentration than in the rest of the room. Although the refuse did not block any passageways in the room, it did obstruct some.

The building had two restrooms, one in the office area and one in the general workroom. At the time of the inspection, the restroom in the general workroom was in an unsanitary condition in that toilet facilities were dirty and covered with urine, the sink and floor were dirty, and there were used paper towels on the floor. The restroom did not have a toilet

paper holder and a roll of toilet paper was on the floor. Prior to the inspection, Todd had installed a toilet paper holder in the restroom, but it had been removed from the wall and stolen.

The restroom in the workroom also had no paper towels, no cloth towels nor any other device for the employees to dry their hands with. Todd did furnish its employees cotton towels, however, which could be used for this purpose. Also, there was no soap or other cleaning agent in the restroom which the employees could use to wash their hands. There was, though, a container of liquid cleaner just outside the restroom door which the employees used for this purpose.

The Commissioner cited the conditions found as nonserious violations and proposed a penalty of \$90.00 each for all the violations charged, except the last one involving the withdrawal and mixing of the thinner. For the last violation the Commissioner proposed a penalty for \$270.00. In proposing these penalties, the Commissioner followed guidelines contained in the Compliance Manual furnished to its Compliance Officers and Industrial Hygienists. Under these guidelines all nonserious violations are evaluated in terms of the hazard they present. Taken into consideration are the likelihood of injury occurring from the hazard, the likely severity of any injury that may result, and the extent to which the violation occurs.

In the instant case, the violations charged in the first 11 citations would ordinarily not be considered serious enough by the Commissioner to warrant a penalty. However, under the Commissioner's guidelines there is proposed for all repeat violations a minimum unadjusted penalty of \$100.00. Since these same violations were charged in an earlier citation against Todd issued on July 22, 1977, the minimum unadjusted penalty of \$100.00 was proposed for each of them.

Using the same criteria of the likelihood and severity of injury and the extent of the violation for the violation charged in the last citation, the

Commissioner determined that although there was only a moderate likelihood of injury, and although the violation was an isolated case, any injury that would result from the hazard would probably be severe enough to require hospitalization. The Commissioner, therefore, proposed an unadjusted penalty of \$150.00.

The Commissioner's guidelines also provide for a reduction of the unadjusted penalty by up to 20% for the good faith shown by an employer in complying with the Act, by up to 20% for the history of the employer in complying, and by up to 10% for the size of the employer in terms of the number employed. Here, the Commissioner allowed no adjustment for good faith because it could find no evidence of any safety and health program by the employer, and no reduction was allowed for history because Todd had been cited on previous occasions for the same violations. A 10% reduction was allowed for size, reducing the unadjusted penalties of \$100.00 to \$90.00 and the unadjusted penalty of \$150.00 to \$135.00. The \$135.00 penalty was then doubled in accordance with the Commissioner's guidelines because it was a repeat violation, so that the final penalty proposed for the last citation was \$270.00.

When the Industrial Hygienist arrived to make his inspection the owner of the company was not present. He presented his credentials to the owner's secretary, who is also the owner's daughter, and requested permission to make the inspection. The secretary was not, however, an officer or supervisor of the company. It is unclear whether he was ever given permission to make the inspection, but at any rate he was not prevented from doing so. Before, the inspection was completed the owner returned and the closing conference was conducted by the Industrial Hygienist with him.

CONCLUSIONS OF LAW

29 CFR 1910.141(c)(4)(ii) provides:

Sanitation Waste disposal All sweepings, solid or liquid wastes, refuse and garbage shall be removed in such a manner as to avoid creating a menace

to health and as often as necessary or appropriate to maintain the place of employment in a sanitary condition.

The standard requires that waste be removed from places of employment as often as "necessary or appropriate" to maintain them in a sanitary condition. As pointed out by the Industrial Hygienist, what is "necessary or appropriate" depends in large part on the work being performed. Where, as in this case, a great deal of dust is generated, and large amounts of debris accumulate from the work itself, a certain amount of debris can be expected at all times. Thus, the accumulation of a reasonable amount of discarded tires, batteries and used automobile parts in Todd's shop would not constitute a violation of the standard.

By the same token, however, where the work generates a great deal of debris, there should be a systematic method of removing it. Todd does not have such a method, relying instead on the availability of one of his employees, when he has no other work to do, to remove the refuse. Consequently, an unreasonable amount of debris generated by the work was allowed to accumulate and was not removed as often as "necessary or appropriate" in violation of the standard.

In addition, debris in the form of bottles, food wrappers and other items not directly related to the work being performed was also allowed to accumulate. There constituted a clearer violation of the standard. International Terminal Operating Co., Inc., CCH-OSHD ¶ 16,809 (1973).

29 CFR 1910.22(a)(1) provides:

Housekeeping All places of employment, passageways, storerooms and service rooms shall be kept clean and orderly and in a sanitary condition.

The citation for violating this standard is based on the same conditions as the citation just discussed, namely the accumulation of waste and debris. Here, too, the nature of work must be taken into consideration. However, even given the nature of the work, the evidence establishes that the storerooms, service and work areas and passageways were not maintained in an orderly and

sanitary condition thereby creating health a hazard to the employees and violating the the standard. In addition, the presence of tires and other debris in the passageway, although it did not obstruct them, presented a tripping hazard to the employees which is also a violation of the standard. Geneva Rubber Co., CCH-OSHD ¶ 21,186 (1976)

29 CFR 1910.141(c)(1)(iii) provides:

Toilet facilities General The sewage disposal method shall not endanger the health of the employees.

The Commissioner has interpreted this standard to apply to toilet facilities and to require they be kept in a clean and sanitary condition. This interpretation has been sustained by this Review Commission in Commissioner of Labor, Commonwealth of Kentucky v. Bowling Green Fire Department Central Station, KOSHRC 324 (1977). In the instant case, the evidence establishes that the restroom in the shop area, and in particular the toilet facilities in the restroom, was not kept in a sanitary condition, thereby creating a danger to the health of the employees in violation of the standard.

29 CFR 1910.141(c)(1)(v) provides:

Toilet facilities General Toilet paper with holder shall be provided for every closet.

Although a toilet paper holder had been installed in the employees restroom prior to the inspection, it had been stolen and not replaced when the inspection was made. Thus, the standard was violated unless it is shown as an affirmative defense that Todd's management was unaware and could not reasonably be expected to know that there was no longer a holder in the restroom. The evidence, however, indicates that the holder had been missing for some time prior to the inspection, and that Todd's management was or, should have been, aware of it.

29 CFR 1910.141(d)(2) provides:

Washing facilities Lavatories Receptacles
shall be provided for disposal of used towels.

No receptacle was provided in the employees restroom for used towels. As a result used paper towels were thrown on the floor. This constitutes a violation of the standard and a health hazard to the employees.

29 CFR 1910.141(d)(2)(iv) provides:

Washing facilities Lavatories Individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories shall be provided.

Although, the restroom for the employees was not equipped with any facilities for drying their hands, each employee was furnished individual cloth hand towels to be used for that purpose. This conformed to the requirements of the standard and the citation for its violations should be vacated.

29 CFR 1910.141(d)(2)(iii) provides:

Washing facilities Lavatories Hand soap or similar cleansing agents shall be provided.

The employees restroom did not contain any soap inside it when the inspection was made. However, a cleaning agent to clean their hands was available for use by the employees just outside the restroom door. This satisfies the standard and the citation for its violation should be vacated.

29 CFR 1910.107(e)(2) provides:

Spray finishing using flammable and combustible materials Flammable and combustible liquids, storage and handling Quantity. The quantity of flammable and combustible liquids kept in the vicinity of spraying operations shall be the minimum required for operations and should ordinarily not exceed a supply for 1 day or one shift. Bulk storage of flammable or combustible liquids shall be in a separate, constructed building detached from other important buildings or cut off in a standard manner.

The obvious purpose of this standard to minimize the danger of fire in paint spray areas by reducing the quantity of flammable substances in

the area. Here the storage of more than one day's supply of paint and paint thinner in the general workroom where other work was performed was a violation of the standard and a hazard to the employees.

29 CFR 1910.107(e)(3) provides:

Spray finishing using flammable and combustible materials Flammable and combustible liquids - storage and handling Containers. Original closed containers approved portable tanks, approved safety cans or a properly arranged system of piping shall be used for bringing flammable or combustible liquids into the spray finishing room. Open or glass containers shall not be used.

In the instant case, none of the methods prescribed by the standard for carrying flammable liquids were used to bring any of the flammable materials used in spray painting into the spray painting room. On the contrary, one of the methods prohibited, open containers, was often used. This was a violation of the standard and a hazard to the employees.

29 CFR 1910.107(g)(1) provides:

Spray finishing using flammable and combustible materials Operations and maintenance Spraying. Spraying shall not be conducted outside of predetermined spraying areas.

The evidence established that some spray painting was conducted outside the area designated and equipped for it. Although it was only a minimal amount, it constituted a violation of the standard and a hazard to the employees.

29 CFR 1910.107(e)(4) provides:

Spray finishing using flammable and combustible materials Flammable and combustible liquids - storage and handling Transferring Liquids. Except as provided subparagraph (5) of this paragraph the withdrawal of flammable and combustible liquids from containers having a capacity of greater than 60 gallons shall be by approved pumps. The withdrawal of flammable or combustible liquids from containers and the filling of containers, including portable mixing tanks, shall be done only in a suitable mixing room or a spraying area when the ventilating system is in operation. Adequate precautions shall be taken against liquid spillage and sources ignition.

Here again paint and paint thinner were removed from their containers in the general workroom which is not properly ventilated for such activity and where adequate precautions were not taken to protect against sources of ignition. This was a violation of the standard and a hazard to the employees.

Concerning the proposed penalties, in view of the repeat nature of the violations, and the seriousness of the hazard presented by the last violation, they are appropriate under the circumstances.

There is one final issue remaining involving the conduct of the inspection itself. KRS 338.111 provides that a representative of the employer shall be given an opportunity to accompany the Industrial Hygienist when he makes his inspection. This section is identical to Section 8(e) of the Federal Act which has been construed to require that ^{the} employer be afforded an opportunity to accompany the inspection. However, even though the section is mandatory, the failure of the inspecting officer to comply with it will not void the inspection where there has been substantial compliance with the Act and the employer is unable to demonstrate that prejudice resulted from his nonparticipation. Chicago Bridge and Iron Company v. Occupational Safety and Health Review Commission, 535 Fed2d.371 (7th Cir., 1976).

Here, Todd's management was not afforded an opportunity to accompany the Industrial Hygienist when he made the inspection. ~~Nor was the Industrial Hygienist given permission by Todd's management to make the inspection.~~ However, except perhaps for the conditions cited involving the failure to provide soap ~~in the restroom~~ and paper towels in the restroom, which it is concluded herein were improperly cited and should be vacated, it has not been demonstrated that Todd was prejudiced by the absence of its management during the inspection. Therefore, the citation on the basis of the inspection was proper.

RECOMMENDED DECISION

Upon the basis of the foregoing Findings of Fact, Conclusions of Law, and upon the entire record,

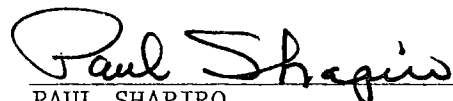
IT IS HEREBY ORDERED

That the citation charging a violation of 29 CFR 1910.141(a)(4)(ii), 29 CFR 1910.22(a)(1), 29 CFR 1910.141(c)(1)(iii), 29 CFR 1910.141(c)(1)(v), 29 CFR 1910.141(d)(2)(v), 29 CFR 1910.141(d)(1), 29 CFR 1910.107(e)(2), 29 CFR 1910.107(e)(3) and 29 CFR 1910.107(g)(1), (as adopted by 803 KAR 2:020), and proposing a penalty therefor of \$90.00 for each standard violated, be and is hereby sustained.

That the citation charging a violation of 29 CFR 1910.141(d)(2)(iv) and 29 CFR 1910.141(d)(2)(iii), (as adopted by 803 KAR 2:020) and proposing a penalty therefor for each standard violated be and is hereby vacated.

That the citation charging a violation of 29 CFR 1910.107(e)(4) (as adopted by 803 KAR 2:020) and proposing a penalty therefor of \$270.00 be and is hereby sustained.

It IS FURTHER ORDERED that the citations sustained must be abated and the penalties must be paid without delay, but no later than 30 days from the date hereof.


PAUL SHAPIRO
HEARING OFFICER
KOSHRC

Dated: March 9, 1978
Frankfort, Kentucky

DECISION NO. 533