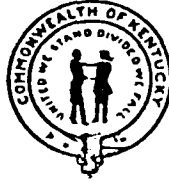


W.W.

FV



KENTUCKY OCCUPATIONAL SAFETY AND HEALTH
REVIEW COMMISSION

JOHN Y. BROWN, Jr.
GOVERNOR

AIRPORT BLDG., LOUISVILLE RD., (U.S. 60-WEST)
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-6892

CHAIRMAN

CARL J. RUH
MEMBER

CHARLES E. BRADEN
MEMBER

June 11, 1982

KOSHRC #915

COMMISSIONER OF LABOR
COMMONWEALTH OF KENTUCKY

COMPLAINANT

VS.

NORTHLAND CORPORATION

RESPONDENT

DECISION AND ORDER OF
REVIEW COMMISSION

Before RUH and BRADEN, Commissioners.

A Recommended Order of Hearing Officer Wayne Waddell, issued under date of March 10, 1982, is presently before this Commission for review pursuant to a petition for discretionary review filed by the Respondent.

The case below involved an alleged serious violation of 29 CFR 1910.213(g)(1) (as adopted by 803 KAR 2:020) and a proposed penalty of \$350. The Recommended Order of the Hearing Officer sustains the violation as charged and imposes a reduced penalty assessment of \$250. Respondent's petition for review alleges that the cited standard does not apply to the saw in question.

In its brief on review the Respondent contends that the saw involved in this case is properly classified as a hand-fed cross-cut table saw subject to the provisions of 29 CFR 1910.213(d). It is further alleged that it would be inappropriate to sustain the penalty in this action. The Complainant's brief requests that the Hearing Officer's finding of a violation of the cited standard be affirmed with the penalty reduced to \$1.00. The penalty reduction and an extension of abatement are deemed necessary due to confusion generated by the case.

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After careful consideration of the entire record below, we hereby affirm the Hearing Officer's finding of a serious violation of 29 CFR 1910.213(g)(1) (as adopted by 803 KAR 2:020). In light of the Complainant's position in its brief on review, we hereby reverse the Hearing Officer's proposed penalty assessment of \$250 and impose a penalty of \$1.00 for the serious violation.

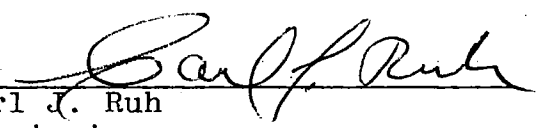
We note, in passing, that the Respondent has consistently maintained that affirmance of the serious violation in this action will shed some unfavorable light on the safety and health inspection process because the saw in question was not the subject of a citation subsequent to an earlier inspection. We find that the record (TR, 18-20) and the Hearing Officer's decision (R.O., 6) clearly explain that due to a number of factors a citation may be warranted and valid even though a prior inspection did not result in issuance of citation.

ORDER

IT IS HEREBY ORDERED that the Hearing Officer's finding of a serious violation of 29 CFR 1910.213(g)(1) (as adopted by 803 KAR 2:020) is AFFIRMED.

IT IS ORDERED that the reduced penalty assessment of \$250 is further reduced to \$1 and is AFFIRMED.

IT IS FURTHER ORDERED that the Respondent shall abate the cited condition within thirty (30) days of the date of this order.



Carl J. Ruh
Commissioner

s/Charles E. Braden

Charles E. Braden
Commissioner

DATED: June 11, 1982
Frankfort, KY

DECISION NO. 1141

KOSHRC #915
(3)

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

John Calhoun Wells
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Frankfort, KY 40601

(Messenger Service)

Hon. Rex Hunt
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Mr. Jon S. Gudmundsson, Jr., V.P. (Cert. Mail #P209 357 691)
Northland Corporation
P. O. Box 265
LaGrange, KY 40031

This 11th day of June, 1982.


Kenneth Lee Collova
Executive Director