

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

Director, Dept. of Labor and Industrial Relations,
 Complainant,
 vs
 ADMORE DISTRIBUTION CORPORATION,
 Respondent.

CASE NO. AB 83-1
 (OSHC No. M3015
 OSHL-1 No. 57-83)

FILED
 LIR APPEALS BOARD
 STATE OF HAWAII
 JUN 29 AM 10:21 '83

DECISION AND ORDER

This Occupational Safety and Health case is before the Board on written notice of contest filed by Respondent ADMORE DISTRIBUTION CORPORATION on January 6, 1983. Respondent contests alleged violations of the Hawaii State Occupational Safety and Health Standards set forth in a Notification of Failure to Correct Alleged Violation issued by the State Department of Labor and Industrial Relations, Division of Occupational Safety and Health, on December 30, 1982.

The specific violations contested before the Board are:

(1) Whether on or about December 27, 1982 Respondent violated Section 301.7-5 I(2) by operating a wire rope sling when one-third of the original outside diameter of the wires had been worn away.

(2) Whether on or about December 27, 1982 Respondent violated Section 367.22-1 by failing to post the rated capacity of an economy vertical reciprocating conveyor in a conspicuous place.

(3) Whether on or about December 27, 1983 Respondent

violated Section 367.22-2 by failing to mark the starting and stopping devices of an economy vertical reciprocating conveyor.

(4) Whether on or about December 27, 1982 Respondent violated Section 367.24-9 A(2) by operating a vertical reciprocating conveyor with a solid bed platform.

(5) Whether on or about December 27, 1982 Respondent violated Section 102.16-1 by failing to post a previously issued citation.

FINDINGS OF FACT

1. Between November 19, 1982 and November 22, 1982, an inspector from the Hawaii State Department of Labor and Industrial Relations, Division of Occupational Safety and Health, conducted a routine occupational safety and health inspection of the premises of ADMORE DISTRIBUTION CORPORATION located at 330 Cooke Street in Honolulu. As a result of that inspection, a citation was issued on December 1, 1982 charging that ADMORE DISTRIBUTION CORPORATION committed a number of violations of the State Occupational Safety and Health regulations. Among these were allegations that the alleged violations listed in Paragraph 1 through 4 above were committed. No proposed penalties were set forth in the citation issued on December 1, 1982.

2. On December 27, 1982 a follow-up inspection was conducted by an inspector of the Division of Occupational Safety and Health.

3. At the time of the follow-up inspection on December 27, 1982 Respondent was operating a wire rope sling as part of an economy vertical reciprocating conveyor when the original diameter of the wires had been worn or scrapped more than one third of its outside diameter.

4. At the time of the December 27, 1982 inspection Respondent failed to post the rated capacity of its economy vertical reciprocating conveyor.

5. At the time of the December 27, 1982 inspection Respondent had failed to mark the starting and stopping devices of its economy vertical reciprocating conveyor.

6. At the time of the December 27, 1982 inspection Leonard Cuifo the president of ADMORE DISTRIBUTION CORPORATION had taken the previously issued citation off the wall because he was in the process of checking on the alleged violations. Mr. Cuifo immediately re-posted the citation when the inspection had been completed.

CONCLUSIONS OF LAW

1. On December 27, 1982 Respondent ADMORE DISTRIBUTION CORPORATION committed violations of the following State Occupational Safety and Health Regulations: Section 301.7-5 I(2), Section 367.22-1, Section 367.22-2 and Section 367.24-9 A(2).

2. On December 27, 1982 Respondent ADMORE DISTRIBUTION CORPORATION did not violate Section 102.16-1 by failing to post the previously issued citation. The explanation of the company's president in this regard is deemed by this Board to be both plausible and credible. The State has failed to offer any rebutting evidence. Accordingly, that portion of the citation is hereby set aside.

ORDER

Respondent ADMORE DISTRIBUTION CORPORATION shall pay to the State fines totally \$660.00 in accordance with the foregoing Conclusions of Law and in compliance with Chapter 396, Hawaii Revised Statutes.

JUL 29 1983

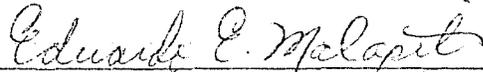
Dated: Honolulu, Hawaii, _____



E. JOHN MCCONNELL, Chairman



YUKIO TAKEMOTO, Member



EDUARDO E. MALAPIT, Member

I do hereby certify that the foregoing is a full, true and correct copy of the original on file in this office.

