

United States of America  
**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**  
1120 20th Street, N.W., Ninth Floor  
Washington, DC 20036-3419

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SECRETARY OF LABOR,	:	
	:	
Complainant,	:	
	:	
v.	:	OSHRC DOCKET NO. 99-1546
	:	
CLEVELAND STEEL CONTAINER	:	
CORPORATION,	:	
	:	
Respondent.	:	

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Appearances:

Kevin Koplin, Esquire  
Chicago, Illinois  
For the Complainant.

James D. Dykes  
Colorado Springs, Colorado  
For the Respondent.

Before: Chief Judge Irving Sommer

**DECISION AND ORDER**

This proceeding is before the Occupational Safety and Health Review Commission (“the Commission”) pursuant to section 10(c) of the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.* (“the Act”). The Occupational Safety and Health Administration (“OSHA”) conducted an inspection of Respondent’s facility in Peotone, Illinois in July of 1999. As a result of the inspection, OSHA issued Respondent a citation and notification of penalty. After an informal settlement conference held on July 29, 1999, an official of OSHA and an official of Respondent signed an informal settlement agreement resolving the citation.<sup>1</sup> However, on August 4, 1999, Respondent notified both OSHA and the Commission in writing that it wished to rescind the

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<sup>1</sup>Although the settlement agreement is dated July 13, 1999, testimony adduced at the hearing in this matter established that C-1, the agreement, was actually executed on July 29, 1999.

settlement agreement and that it was contesting the citation and notification of penalty, and on August 5, 1999, Respondent filed its motion to rescind the settlement agreement. On September 7, 1999, the Secretary filed her response, in which she objected to the motion to rescind and moved to dismiss Respondent's notice of contest.<sup>2</sup> The case was assigned to the undersigned, and on December 16, 1999, a hearing was held in Chicago, Illinois, for the sole purpose of deciding whether Respondent's motion to rescind should be granted.

**Discussion**

At the conclusion of the hearing, the parties were afforded the opportunity to file post-hearing briefs setting out their respective positions in this matter. However, prior to the due date for filing its brief, Respondent on February 5, 2000, filed a motion to withdraw its motion to rescind. The Secretary has filed no response to the motion. Respondent's motion to withdraw is accordingly GRANTED, and its notice of contest is DISMISSED.

So ORDERED.

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Irving Sommer  
Chief Judge

Date: 9 MAR 2000

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<sup>2</sup>The Secretary filed her complaint on August 30, 1999, and Respondent filed its answer on September 1, 1999.