

UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,

Complainant,

v.

M. P. DORY CO.,

Respondent.

OSHRC DOCKET No. 01-1082

Appearances: Mary Bradley  
Office of the Solicitor of Labor  
U. S. Department of Labor  
Cleveland, OH  
For Complainant

Douglas J. Suter, Esq.  
Issac, Brant, Ledman & Teetor  
Columbus, OH  
For Respondent

Before: MICHAEL H. SCHOENFELD, Judge

***DECISION AND ORDER***

***Background and Procedural History***

This case arises under the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651-678 (1970) (“the Act”). On May 28, 2001, a Compliance Officer (“CO”) from the U.S. Occupational Safety and Health Administration (“OSHA”) inspected Respondent’s work site in Columbus, Ohio. As a result of the inspection, OSHA issued a citation to Respondent on May 18, 2001, alleging three serious violations of construction safety standards appearing in Title 29 of the Code of Federal Regulations (“CFR”). Respondent timely contested all citations. A hearing was held in Columbus, Ohio, on October 16, 2001. No affected employees sought party status.

***Jurisdiction***

Complainant alleges and Respondent does not deny that it is an employer engaged in stucco construction work. Respondent does not deny that it uses tools, equipment and supplies which have moved in interstate commerce and conducts a business affecting interstate commerce.

Based on the above finding, I conclude that Respondent is an employer within the meaning of section 3(5) of the Act. Accordingly, the Occupational Safety and Health Review Commission (“the Commission”) has jurisdiction over the parties and the subject matter

***Discussion***

At the hearing, the parties announced that a settlement had been reached. See, Rule 100(a), 29 CFR § 2200.100(a).

The terms of the settlement have been entered into the record. Pursuant to the agreement of the parties, Citation 1, Item 1, alleging a serious violation of the standard at 29 C.F.R. § 1926.21(b)(2) is AFFIRMED. A civil penalty in the amount of \$1,000.00 is assessed. Citation 1, Items 2 & 3 are VACATED.

The terms of the settlement meet the requirements of Commission Rule 100(b), 29 C.F.R. § 2200.100(b). Accordingly, the settlement is approved under 5 U.S.C. § 554(c)(1) and Commission Rule 100. The terms of the stipulated settlement are incorporated, in their entirety, by reference in this order.

SO ORDERED.

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Michael H. Schoenfeld  
Judge, OSHRC

Dated: November 26, 2001  
Washington, D.C.