

SECRETARY OF LABOR,  
Complainant,  
v.  
R & J CRANE SERVICE, INC.,  
Respondent.

OSHRC Docket No. 01-0428

***DECISION AND REMAND ORDER***

Before: ROGERS, Chairman; EISENBREY, Commissioner.

BY THE COMMISSION:

On review before the Commission is an Order Granting Motion to Withdraw Notice of Contest issued by Administrative Law Judge Nancy J. Spies on April 17, 2001. Judge Spies issued the Order after receiving a letter in which Respondent stated that it was withdrawing its Notice of Contest, and she affirmed Complainant's proposed penalty of \$875.00.

Respondent now requests "relief/reimbursement" of the penalty that it apparently paid, based on its assertion that an attorney representing the Occupational Safety and Health Administration (OSHA) notified it on April 18, 2001 that OSHA was withdrawing the citation. Respondent alleges that in response to its request for reimbursement of the previously paid penalty, an OSHA official advised it to submit the request in writing.

We conclude that the evidence in the record is insufficient for the Commission to determine whether any relief may be warranted. Accordingly, we remand this case to

Judge Spies for further proceedings.

/s/  
Thomasina V. Rogers  
Chairman

/s/  
Ross Eisenbrey  
Commissioner

Date: June 19, 2001

**UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

Secretary of Labor,

Complainant,

v

OSHRC Docket Number. **01-0428**

R & J Crane Service, Inc.,

Respondent.

**Order Granting Motion to Withdraw Notice of Contest**

Respondent, by letter dated March 1, 2001, contested a serious citation issued to it on February 2, 2001.

On August 7, 2000, a notice to withdraw its notice of contest was received from the respondent. The notice to withdraw having been considered, it is ORDERED

- I. The notice of withdrawal of the contest, which is considered a motion to withdraw, is granted;
2. The citation and proposed penalty issued to respondent on February 2, 2001, are hereby affirmed and a penalty in the amount of \$875.00 is assessed; and
3. The prehearing telephone conference previously scheduled for May 10, 2001, and the hearing previously scheduled for May 25, 2001, are canceled.

SO ORDERED.

Date

**Judge Nancy J. Spies**

100 Alabama Street, S.W. Room 2R90  
Atlanta, GA 30303-3104

Phone (404) 562-1640 Fax (404) 562-1650

This notice has been sent to:

---

**For the Secretary of Labor**  
Office of the Solicitor, U.S. DOL  
ATTN: Curtis L. Gaye, Esq.  
Atlanta Federal Center  
61 Forsyth St., Rm. 7T10  
Atlanta, GA 30303

**For the Employer:**  
R&J Crane Service, Inc.  
Jamie Wiebelt, Secretary Treasurer  
P O. Box 1806  
Vero Beach, FL 32961