

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,
Complainant,

v.

CRYSTAL BUILDERS,
Respondent.

Docket No. 98-1535 EZ

Appearance: Patrick L. DePace, Esq.
Office of the Solicitor of Labor
Cleveland, Ohio
For Complainant

BEFORE: MICHAEL H. SCHOENFELD, ADMINISTRATIVE LAW JUDGE

DECISION AND ORDER

This matter arises under the Occupational Safety and Health Act of 1970, 29 U.S.C. § § 651 - 678 (1970) ("the Act").

On August 18, 1998 the Occupational Safety and Health Administration of the United States Department of Labor (OSHA) issued to Crystal Builders (Respondent) a citation alleging that on August 6, 1998, at its workplace on Granville Street in Gahana, Ohio, Respondent failed to comply with the construction safety regulation at 29 C.F.R. § 1926.501(b)(1) in that it did not ensure that its subcontractor, L. & R. Construction, provide fall protection to employees exposed to falls of greater than 20 feet. Respondent timely contested.

The Chief Administrative Law Judge designated the case for E-Z Trial pursuant to Commission Rule 203(a), 29 C.F.R. § 2200.203(a) and assigned the matter to the undersigned Administrative Law Judge on November 6, 1998. A hearing in the matter was scheduled for 12:00 noon, February 10, 1999 in Columbus, Ohio.

Respondent, without prior notice to the Commission, did not appear at the hearing either in person or through a representative. Complainant's motion for a default decision against Respondent was granted Rule 64(a), 20 C.F.R. § 2200.64(a)..

Accordingly, the citation and notification of proposed penalty issued to Respondent on August 18, 1998 are AFFIRMED.

FINDINGS OF FACT

All findings of fact necessary for a determination of all relevant issues have been made above. Fed. R. Civ. P. 52(a). All proposed findings of fact and conclusions of law inconsistent with this decision are hereby denied.

CONCLUSIONS OF LAW

1. Respondent was, at all times pertinent hereto, an employer within the meaning of section 3(5) of the Occupational Safety and Health Act of 1970, 29 U. S. C. § § 651 - 678 (1970).

2. The Occupational Safety and Health Review Commission has jurisdiction over the parties and the subject matter.

3. Respondent was in violation of section 5(a)(2) of the Act in that it failed to comply with the standards as alleged in Citation 1, Item 1.

ORDER

1. Citation 1, Item 1 is AFFIRMED
2. A Civil Penalty of \$625.00 is assessed.

Michael H. Schoenfeld
Judge, OSHRC

Dated:

Washington, D.C.