ALASKA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD
P.O. BOX 21149
JUNEAU, ALASKA 99802

STATE OF ALASKA, DEPARTMENT OF LABOR, Complainant, v. HECTOR'S WELDING, INC. Contestant.	)

Docket No. 88-767
Inspection No. Ti-5704-023-88

DECISION AND ORDER

On October 17, 1988, the State of Alaska, Department of Labor ("the Department"), issued several safety and health citations to Hector's Welding, Inc. following an inspection of its workplace on Finnell Drive in North Pole. By letter dated October 28, 1988, Hector's Welding indicated its desire to contest certain of the alleged violations and proposed penalties.

A hearing was scheduled before the Board on June 26, 1989, in Fairbanks. The Department was represented by Assistant Attorney General Lisa Fitzpatrick. Hector's Welding did not appear at the hearing. According to the Department's counsel, Hector's Welding had been contacted approximately two weeks prior to the hearing date regarding possible settlement of the matter and the company's representative had indicated he was aware of the upcoming hearing but desired a postponement. However, no written request for a continuance of the hearing was ever filed with the Board.

At the hearing, the Department presented its case through the testimony of compliance officer Nathan Tibbs as well as several photographs taken by Tibbs during his inspection. Evidence was taken only as to the specific items contested by Hector's Welding; the remaining items were not contested and are therefore considered final and not subject to review. The record was deemed closed at the conclusion of the hearing.

Findings of Fact

1. On July 15, 1988, compliance officer Nathan Tibbs conducted a safety and health inspection of Hector's Welding, Inc.'s workplace on Finnell Drive in North Pole. At the time of the inspection, Hector's Welding had three employees working on the premises.

2. Citation #1, Item #1, alleges a violation of General Safety Code 01.0903(c)(3) for failure to properly guard two right angle head portable grinders. Specifically, Tibbs observed a Skil grinder without any guard and also a Milwaukee grinder with an inadequately designed guard which allowed for a wheel exposure angle in excess of 180 degrees (see Department Exhibits C and D). The alleged violation was classified as a "repeat" of an earlier violation cited on 11/23/87 and carried a proposed penalty of $480.

3. Citation #1, Item #2, alleges a violation of General Safety Code 01.0805(a)(4) for failure to properly install or adjust work rests on three bench grinders. Specifically, Tibbs measured a Cummins grinder with a left-side work rest at least 5/8 of an inch from the wheel; a Black & Decker grinder with both work rests at least 1/4 of an inch from the wheel; and a third grinder (data plate unreadable) with no work rest at all for the right side. The alleged violation was classified as a "repeat" of an earlier violation cited on 11/23/87 and carried a proposed penalty of $480.

4. Citation #1, Item #3, alleges a violation of General Safety Code 01.1102(a)(1) for failure to keep all work areas in clean, orderly and sanitary condition. Tibbs noted that the floor on the northwest end of the shop was cluttered with miscellaneous scraps of sheet metal, creating slip and trip hazards (see Department Exhibit A). This alleged violation was also classified as a "repeat" of an earlier violation cited on 11/23/87 and carried a proposed penalty of $120.

5. Citation #2, Item #1d, alleges a violation of General Safety Code 01.0306(d)(7)(A)(ii) for failure to have portable fire extinguishers located within 10 to 25 feet from flammable/combustible liquid storage areas. Specifically, Tibbs noted that neither the paint storage area at the northeast end of the shop nor the solvent/denatured alcohol storage area on the southeast end of the shop had been provided with suitable, properly located portable fire extinguishers. This alleged violation was classified as "serious" because of the obvious fire hazard and a penalty of $420 was proposed.

6. Citation #3, Item #1a, alleges a violation of General Safety Code 01.0307(g)(1) for failure to conduct spray painting outside predetermined spray areas. Tibbs noted that no

predetermined spray areas had been established to reduce the risk of danger from overlapping activities within the welding shop such as the spray finishing, drying, curing, fusion, welding, cutting and abrasive grinding of metal surfaces, and the dispensing, mixing, transferring and inside storage of flammable/combustible liquids.

7. Citation #3, Item #1b, alleges a violation of Occupational Health and Environmental Control Code 04.0103(c)(2) for failure to use spray booths or spray rooms to enclose or confine all spray-finishing operations. During his inspection, Tibbs observed no such spray booths or rooms to minimize the risk from conducting various hazardous operations within the same work area.

8. Citation #3, Item #1c, alleges a violation of General Safety Code 01.0307(c)(6) for failure to have explosion-proof electrical wiring in the spray-painting area. Specifically, Tibbs found that the electrical wiring and equipment within the apparent spraying area at the northeast end of the shop was not of the explosion-proof type.

9. Citation #3, Item #1d, alleges a violation of General Safety Code 01.0307(e)(9) for failure to ensure that when transferring flammable or combustible liquids from one container to another, both containers shall be effectively bonded and grounded to prevent discharge sparks or static electricity. Tibbs noticed that flammable/combustible liquids had been transferred from one container to another and that none of the containers were grounded or bonded as evidenced by the lack of bonding clips or grounds.

10. Citation #3, Items #1a-1d, were grouped together as "serious" violations because they involve similar or related hazards that increase the potential for injury resulting from an accident as well as the severity of any such injury. A penalty of $420 was proposed for Citation #3.

11. Citation #4, Item #1a, alleges a violation of General Safety Code 01.0805(a)(2) for failure to provide an adequate safety guard covering the spindle end, nut and flange projections of a bench grinder. Specifically, Tibbs observed that the bench grinder located in the shop center storage rack area did not have a safety guard for the right side to cover the spindle end, nut and flange projections which were exposed at the time of the inspection (see Department Exhibits E and F).

12. Citation #4, Item #1b, alleges a violation of General Safety Code 01.0805(b)(9) for failure to properly adjust or install tongue guards on four different bench grinders. Specifically, the Cummins grinder had no tongue guards installed for either wheel; the Black & Decker grinder had no tongue guards

installed for either wheel; a grinder in the center storage area had no tongue guard on the left wheel and the right wheel tongue guard was more than 1/4 inch from the wheel; and another grinder located west of the previous one had no tongue guard on either wheel.

13. Citation #4, Items #1a and #1b, were grouped together and cited as a single "serious" violation because of the potential for cutting injuries to employees as a result of inadequate safety guards. A penalty of $240 was proposed for Citation #4.

Conclusions of Law

1. In view of the failure of Hector's Welding to appear at the hearing or otherwise explain its nonappearance, we find the company to be in default in this matter.

2. Upon consideration of the testimony and exhibits presented at the hearing, we conclude that the Department has met its burden of proof to establish a prima facie case with respect to each of the violations contested by Hector's Welding.

3. We further conclude that the Department has properly classified each of the contested violations, and that the proposed monetary penalties are reasonable and justified under the circumstances.

Order

1. Each alleged violation contested by Hector's Welding is hereby AFFIRMED as cited.

2. The monetary penalties proposed by the Department for each contested violation are also AFFIRMED in the total amount of $2100.

DATED this 6th day of October, 1989.

ALASKA OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

Guy Stringham, Chairman

Donald F. Hoff, Jr., Member

J. C. Wingfield, Member