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

STATE OF ALASKA, DEPARTMENT OF LABOR,	)
Complainant,	)
vs.	)
MAT VALLEY ELECTRIC,	)
Contestant.	)

Docket No. 88-729
Inspection No. Ko-1791-1002-88

DECISION AND ORDER

This matter came before the Board for a hearing on March 14, 1989, in Anchorage, Alaska. The State of Alaska, Department of Labor, Division of Labor Standards and Safety, Occupational Safety and Health Section (hereinafter "the Department") was represented by Assistant Attorney General Mary Pinkel. Mat Valley Electric (hereinafter "the Contestant") did not appear at the hearing. According to the Department's counsel, a telephone call had been received from Bill Hathaway, owner of Mat Valley Electric, indicating he would not appear to contest the citations and requesting a bill for the applicable penalties.

At issue are two "serious" citations issued by the department based on an inspection of a worksite under Contestant's control at the Sutton Elementary School on February 1, 1988. Citation #1 alleges a violation of Alaska

Construction Code 05.110(e)(2)(A)(i) for failure to use ground-fault circuit interrupters or an assured equipment grounding conductor program. A penalty of $100 is proposed. Citation #2 alleges a violation of Alaska General Safety Code 01.0802(a)(5) which requires fan blades to be properly guarded. A penalty of $100 is also proposed.

The Department offered the testimony of compliance officer Bill Kober, who conducted the inspection, as well as three photographic exhibits taken by him during the course of the inspection. The record was deemed closed at the conclusion of the hearing.

Findings of Fact and Conclusions of Law

The record discloses that as a result of Contestant's desire to contest these citations, a hearing was scheduled for March 14, 1989 and Contestant was duly notified of the hearing in a formal notice dated February 16, 1989. Contestant failed to appear at the hearing and telephoned on the morning of the hearing to indicate he would not appear to contest the citations. Accordingly, we find the Contestant to be in default.

With respect to the citations at issue, we conclude that the evidence presented by the Department is sufficient to establish a prima facie case. Compliance officer Kober testified that he saw Contestant's employees performing electrical work in a trailer which had no ground-fault circuit

interrupters; nor did Contestant have an assured equipment grounding program in place. Because of the clear potential for shock or electrocution, we are persuaded that the violation was properly classified as "serious."

Regarding Citation #2, Kober testified that he saw Contestant's employees working within a few feet of three large Modine gas-fired heaters with exposed fan blades. The three photographs show that the heaters have a rudimentary guard over the blades but that the openings are clearly larger than the half-inch permitted by the Code. The heaters were located just off the ground near where employees were working. Because of the risk of cuts and injuries to employees, we believe Contestant could have and should have provided heaters with smaller (i.e. wire-mesh) openings. We also agree that this violation was a "serious" one.

Lastly, we find that the proposed penalties were properly calculated in accordance with the Department's compliance manual, and we are satisfied that the amounts are reasonable and appropriate under the circumstances of this case.

Order

1. Citation #1 and the proposed penalty of $100 are AFFIRMED.

2. Citation #2 and the proposed penalty of $100 are AFFIRMED.

DATED this 2nd day of May, 1989, at Juneau, Alaska.

ALASKA OCCUPATIONAL SAFETY
AND HEALTH REVIEW BOARD

Guy Stringham, Chairman

Donald F. Hoff, Jr., Member

J.C. Wingfield, Member