

IN THE MATTER OF

WASHINGTON SUBURBAN
SANITARY COMMISSION

* BEFORE THE
* COMMISSIONER OF
* LABOR AND INDUSTRY
* MOSH NO. K9319-017-04
* DLR-MOSH-41-04-19930
*

* * * * *

FINAL DECISION AND ORDER

This matter arose under the Maryland Occupational Safety and Health Act, Labor and Employment Article, Title 5, *Annotated Code of Maryland*. Following an inspection, the Maryland Occupational Safety and Health Unit of the Division of Labor and Industry (“MOSH”), issued a citation to Washington Suburban Sanitary Commission (“WSS” or “Employer”), alleging certain violations. On July 19 and 21, 2004, a hearing was held before Hearing Examiner Louis N. Hurwitz, at which the parties introduced evidence, presented witnesses, and made arguments. Thereafter, Hearing Examiner Hurwitz issued a Proposed Decision recommending that the citation be affirmed.

Thereafter, the Employer requested review of the proposed decision under § 5-214(e), *Annotated Code of Maryland*. On January 25, 2005, the Commissioner held the review hearing and heard argument from the parties. Based upon the review of the entire record and consideration of the relevant law and the positions of the parties, the proposed decision of the Hearing Examiner is reversed, and the citation is **DISMISSED**.

DISCUSSION

The Commissioner finds that MOSH has failed to meet its burden of proof in this case, and concludes that the citations issued against WSSC should be dismissed.

ORDER

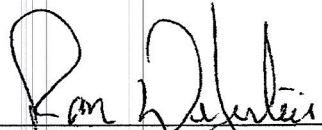
For the foregoing reasons, on the 4 day of March, 2008, it is hereby **ORDERED** that:

1. Citation 1, Item 1, alleging a serious violation of 29 CFR 1926.651(c)(2) is **DISMISSED.**

2. Citation 2, Item 2, alleging a serious violation of 29 CFR 1926.651(j)(2) is **DISMISSED.**

3. Citation 1, Item 3, alleging a serious violation of 29 CFR 1926.652(a)(1) is **DISMISSED.**

4. This Order becomes final 15 days after it issues. Judicial review may be requested by filing a petition for review in the appropriate circuit court. Consult Labor and Employment Article, § 5-215, Annotated Code of Maryland, and the Maryland Rules, Title 7, Chapter 200.



J. Ronald DeJulijs
Commissioner of Labor and Industry