

STATE OF MARYLAND

DLLR

DEPARTMENT OF LABOR, LICENSING AND REGULATION

DIVISION OF LABOR AND INDUSTRY
J. RONALD DEJULIIS, COMMISSIONER
1100 N. EUTAW STREET, ROOM 600
BALTIMORE, MD 21201

E-mail: dli@dllr.state.md.us

April 16, 2014

Mr. Patrick Edwards
Edwards Remodeling Construction Corporation
4116 Penhurst Avenue
Arlington, Maryland 21215

Re: MOSH Case No. D2812-034-139
OAH No. DLR-MOSH-41-13-36563

Dear Sir:

Enclosed is the Final Decision and Order issued today in the case noted above.

Sincerely yours,

Minnie L. Godsey
Administrative Officer
Office of the Commissioner
of Labor and Industry

Enclosure

cc: Jenny Baker/Sarah Harlan, Assistant Attorneys General
✓ Niknaz McCormally, Assistant Attorney General
✓ Catherine Bellinger, Assistant Attorney General
Judge Jana Burch, Office of Administrative Hearings
Librarian, Office of Administrative Hearings
MOSH Office of Review

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

IN THE MATTER OF * BEFORE THE
* COMMISSIONER OF LABOR
EDWARDS REMODELING * AND INDUSTRY
CONSTRUCTION CORPORATION * MOSH CASE NO. D2812-034-13
* OAH CASE NO. DLR-MOSH-
* 41-13-36563

* * * * *

FINAL DECISION AND ORDER

FINDINGS OF FACT

This matter arose under the Maryland Occupational Safety and Health Act, Labor and Employment Article, Title 5, *Annotated Code of Maryland*. A hearing on citations issued against Edwards Remodeling Construction Corporation (“the Employer”), by the Maryland Occupational Safety and Health Unit of the Division of Labor and Industry (“MOSH”) was scheduled for March 12, 2014 at 9:30 am.

Notice of the hearing was issued by MOSH on September 23, 2013 by both certified and regular mail. The certified mail receipt was returned as claimed by the Employer and two letters were sent via the U.S. Postal Service stating the date and time of the hearing. A third letter sent via the U.S. Postal Service provided the date of the hearing. None of the letters were returned as undeliverable. The Employer failed to appear for the hearing on March 12, 2014.

By letter dated March 19, 2014, Administrative Law Judge Lorraine Fraser sitting as Hearing Examiner, notified the Employer that the “failure to appear is deemed a waiver and withdrawal of the Notice of Contest under Code of Maryland Regulations (COMAR) 09.12.20.13H” and that the Employer had 15 working days from the receipt of the letter to request that the Notice of Contest be reinstated.

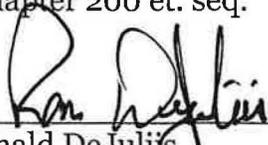
On March 26, 2014, Mr. Patrick Edwards, sent a letter to counsel for MOSH which was forwarded to the undersigned. In his letter, Mr. Edwards states that he could not attend the hearing because he had a job interview and forgot to notify MOSH's counsel. He also stated he was going out of town to look for work.

CONCLUSIONS OF LAW

A request for reinstatement of the Notice of Contest may be granted "only upon a showing of good cause for the failure to appear for hearing." COMAR 09.12.20.13H(3). The Employer has not shown good cause for failure to appear for the hearing. As set forth above, the Employer received notice on four occasions of the date of the hearing. In addition, the Employer made no attempt whatsoever to advise counsel for MOSH or the Office of Administrative Hearings ("OAH") that he would be unavailable on March 12th. Accordingly, the Employer has not shown good cause for failing to appear at the hearing and is deemed to have withdrawn its notice of contest and waived its right to a hearing. The citation is final and the penalty is due and owing.

ORDER

The Commissioner of Labor and Industry hereby ORDERS this 16th day of April, 2014 that the citation issued in this matter is final and the penalty due and owing. This Order becomes final 15 days after issuance. Judicial review may be requested by filing a written request for review with the appropriate circuit court within 30 days after this Order becomes final. See Labor and Employment Article, § 5-215, *Annotated Code of Maryland*, and the Maryland Rules, Title 7, Chapter 200 et. seq.



J. Ronald DeJuliis
Commissioner of Labor and Industry