

Manitoba Labour Board

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ORDER NO. 39

Case No. 314/07/WSH

IN THE MATTER OF: *THE WORKPLACE SAFETY AND HEALTH ACT*

- and -

IN THE MATTER OF: An application by

SHAW LABORATORIES LTD.,

Applicant,

- and -

Director, Workplace Safety and Health,

Respondent.

This Decision/Order has been edited to protect the personal information of individuals by removing personal identifiers.

WHEREAS:

1. On May 3, 2007, Shaw Laboratories Ltd. (the "Employer") filed an application seeking an appeal from a Decision of the Director, Workplace Safety and Health (the "Director") pursuant to Section 53.1 of *The Workplace Safety and Health Act, R.S.M. 1987, c. W210* (the "WSHA") respecting the issuance of five (5) administrative penalties for failure to comply with five (5) Improvement Orders issued under the WSHA, namely:
 - Improvement Order No. 3, Fire Safety-Fire Extinguishers, MR 108/88R 28, issued May 31, 2006;
 - Improvement Order No. 7, W.H.M.I.S.-Education, MR52/88 4; MR52/88 5; MR53/88 2, issued June 30, 2006;
 - Improvement Order No. 8, Electrical-Panel Access, MR108/88R 4(1), issued May 31, 2006;
 - Improvement Order No. 10, Personal Protective Equipment-Handling chemicals, MR53/88 31(1)(2)(3), issued May 19, 2006; and
 - Improvement Order No. 12, Safety and Health Representative, W210 41, issued May 31, 2006.

On April 16, 2007, due to the non compliance with the above noted Improvement Orders, five (5) administrative penalties were issued pursuant to Section 53.1 of the WSHA, as follows:

- Fire Extinguishers - \$2,500.00;

- W.H.M.I.S.-Education - \$1,000.00;
 - Electrical Panel - \$2,500.00;
 - Personal Protective Equipment-Handling chemicals - \$2,500.00; and
 - Safety and Health Representative - \$1,000.00.
2. On May 28, 2007, following an extension of time, the Director, through Counsel, filed its reply to the application, submitting that the Board should confirm the administrative penalties and dismiss the appeal without the necessity of an oral hearing.
 3. On June 6, 2007, the Board advised the parties that, pursuant to Sections 53.1(8) and 53.1(9) of the WSHA, the Board could only exercise its jurisdiction following the hearing of an appeal.
 4. On July 12, 2007, the Board conducted a hearing, at which time the Employer, and Counsel for the Director, appeared before it and presented evidence and argument. The investigating Safety and Health Officer with the Workplace Safety and Health Division attended the hearing.
 5. The Board, following consideration of material filed, evidence and argument presented, has determined that the Employer failed to comply with the five (5) Improvement Orders issued under Section 26(1) of the WSHA, and which Orders were subject to administrative penalties. Having made this determination, and further, having satisfied itself that the penalties imposed were established in accordance with the *Administrative Penalty Regulation 62/2003*, the five (5) administrative penalties issued on April 16, 2007, pursuant to Section 53(1) of the WSHA, are **HEREBY CONFIRMED**. Accordingly, the Employer's appeal of the decision of the Director is **DISMISSED**.

T H E R E F O R E

The Manitoba Labour Board **HEREBY DISMISSES** the appeal of Shaw Laboratories, filed with the Manitoba Labour Board on May 3, 2007.

DATED at **WINNIPEG**, Manitoba, this 24th day of July, 2007, and signed by the Manitoba Labour Board by:

"Original signed by"

W. D. Hamilton, Chairperson

RL:tj/rb-s