

State of Tennessee

Department of Labor and Workforce Development
220 French Landing Drive
Nashville, TN 37243
Phone: 615-741-2793 Fax: 615-253-1623



Citation and Notification of Penalty

To:

Mike Walker dba M&K Home Improvement

and its successors
2445 Marvin Vaught Rd.
Troy, TN 38260

Inspection Number: 1317011
Inspection Date (s): 05/18/2018
Issuance Date: 07/05/2018
Reporting ID: 0454711
CSHO ID: G9007
Optional Report #: 030-2018

Inspection Site:

1400 Vaden Street
Union City, TN 38261

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

On 05/18/2018, an inspection of your establishment/workplace was conducted by the Tennessee Occupational Safety and Health Administration (TOSHA) pursuant to Tennessee Code Annotated §§ 50-3-101 through 50-3-918. This Citation and Notification of Penalty (hereafter referred to as this Citation) allege violations of standards and/or rules promulgated under the provisions of the Code. These alleged violations must be corrected on or before the date indicated with each violation description.

Under the Code, employers have certain responsibilities and rights regarding citations for alleged violations.

EMPLOYER RESPONSIBILITIES

POST THIS CITATION

T.C.A. § 50-3-307(a)(4) and Department of Labor and Workforce Development Rules require this Citation (or a copy) to be immediately posted at or near the location where each alleged violation occurred, or if not practicable, in a prominent place visible to all employees. This Citation must remain posted until the alleged violations are corrected but for no less than three (3) working days. Equipment, referenced in this Citation, that is moved during the correction period, must have a copy of this Citation attached. Failure to post this Citation subjects the employer to a penalty of up to \$3,000.00 for each Citation not posted.

CORRECT THE VIOLATIONS

You must correct each violation by the date listed in this Citation unless you request an extension or file a notice of contest. (See "Formal Contest" below.)

EXTENSION OF CORRECTION DATES

- 1) You may request an extension of the correction date(s) set forth in this Citation(s) when you cannot correct the alleged violation(s) by the date listed because of circumstances beyond your control. The request must be in writing and filed with the TOSHA area office supervisor no later than the end of the business day on the day after the original abatement date. The request must include the following information:
 - a) Steps taken to-date to correct the cited conditions.
 - b) Additional time needed to achieve compliance.
 - c) The reasons additional time is necessary.
 - d) All interim steps being taken to safeguard employees against the cited hazard.
 - e) A dated certification that a copy of the request has been posted and, if appropriate, served on the authorized representative of affected employees.

The employer shall post a copy of the request in a conspicuous place for a period of twenty (20) calendar days. The area supervisor then has ten (10) days after the posting period to grant or deny the request and will inform the employer of such, in writing, by the end of the ten (10) day period.

To request an extension of correction date(s), contact Wade Gowan, Area Supervisor at telephone (901) 543-7259 or fax (901) 543-7557.

NOTIFY TOSHA OF CORRECTIVE ACTION

You must notify Wade Gowan, in writing, when correction of each alleged violation has been completed. Enclosed is the Abatement Certification Form to be used to report corrective action taken for each violation. Instructions for completing this form are also enclosed.

You must also notify your employees and their representatives (if represented) of corrective action taken by posting the Abatement Certification Form, or by other effective means.

For items identified in this Citation as “**Abatement Verification Required**”, you must include additional documentation such as photographs, receipts, work orders, etc. to verify the corrective action taken. Failure to provide this additional documentation to TOSHA will subject the employer to additional penalties of up to \$1,000.00. This additional documentation must also be posted at or near where the violation occurred. Failure to post the additional documentation will subject the employer to additional penalties of up to \$3,000.00.

PAYMENT OF PENALTY

Payment for the penalty is **due in full thirty (30) days from the date of receipt of this Citation and Notification of Penalty** unless a notice of contest is filed. Correction of alleged violation(s) does not excuse you from payment of any penalty which has become a final order of the Department of Labor and Workforce Development. Penalties not paid within thirty (30) days from the date of receipt will be assessed late fees and interest (see the Penalty Notice enclosed). Penalties should be paid by check or money order made payable to: “Treasurer State of Tennessee.” Mail payments to the following address:

**State of Tennessee, Department of Labor and Workforce Development
Division of Occupational Safety and Health
Attn: Penalty Payments
220 French Landing Drive
Nashville, TN 37243-1002**

EMPLOYER RIGHTS

INFORMAL CONFERENCE

You may request an informal conference to discuss the alleged violations and/or penalties. Informal conferences **must be held within twenty (20) days of the receipt of this Citation and Notification of Penalty**. To schedule an informal conference, contact Wade Gowan, Area Supervisor at telephone (901) 543-7259 or fax (901) 543-7557. Twenty four (24) hours prior to the informal conference post the “Notice to Employees of Informal Conference” and bring a copy of the notice to the informal conference. A copy of the notice is enclosed.

FORMAL CONTEST

You have the right to contest any or all parts of this Citation and/or the penalties before the Tennessee Occupational Safety and Health Review Commission. If you choose to contest, you must submit written notification to the Commissioner of Labor and Workforce Development stating what parts of this Citation and Notification of Penalty you are contesting. Notification **must be received within twenty (20) calendar days of receipt of this Citation and Notification of Penalty**. If you do not contest within the twenty (20) calendar day period, this Citation and Notification of Penalty shall be deemed a final order and not subject to further review by any agency or court (T.C.A. §§ 50-3-307(b) and 50-3-407, and Tennessee Department of Labor and Workforce Development Rules Chapter 0800-01-04).

ADDITIONAL INFORMATION

For additional information, contact Wade Gowan, Area Supervisor, Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health, 40 South Main St., Suite 500, Memphis, TN 38103.

ABATEMENT CERTIFICATION FORM **INSTRUCTIONS**

- 1) Complete this form for each cited violation item as follows:
 - a) Enter the citation number and item number in the first column
 - b) Enter the date the item was corrected in the second column
 - c) Explain in detail how each cited violation item was corrected in the third column (See examples below)
- 2) You may request an extension of the correction date(s) set forth in this Citation(s) when you cannot correct the alleged violation(s) by the date listed because of circumstances beyond your control. The request must be in writing and filed with the TOSHA area office supervisor no later than the end of the business day on the day after the original abatement date. The request must include the following information:
 - a) Steps taken to-date to correct the cited conditions.
 - b) Additional time needed to achieve compliance.
 - c) The reasons additional time is necessary.
 - d) All interim steps being taken to safeguard employees against the cited hazard.
 - e) A dated certification that a copy of the request has been posted and, if appropriate, served on the authorized representative of affected employees.

The employer shall post a copy of the request in a conspicuous place for a period of twenty (20) calendar days. The area supervisor then has ten (10) days after the posting period to grant or deny the request and will inform the employer of such, in writing, by the end of the ten (10) day period.

- 3) To request an extension of abatement/correction, contact Wade Gowan, Area Supervisor at telephone (901) 543-7259 or fax (901) 543-7557.
- 4) Mail or fax the completed form to the Area Office shown on the form
- 5) Contact the Area Office Supervisor for additional information or if you have any questions
- 6) Additional copies can be obtained electronically at:
http://tn.gov/assets/entities/labor/attachments/TOSHA_Abatment_Form_2001.pdf

Examples of How to Complete the Form

Citation & Item #	Date Corrected	HOW CORRECTED
1/1	02/16/2008	<p>The unguarded band saw #1234 located in the maintenance area was fitted with a factory made guard purchased from Ajax Equipment Co. The unused portion of the blade is now fully enclosed in a metal guard. Employees have been trained in the proper use of safety equipment.</p> <p>(NOTE: This item was identified as “Abatement/Correction Documentation Required” - We have also enclosed photographs of the newly guarded saw and a copy of the purchase documents from Ajax Equipment the parts supplier.)</p>
2/1a	02/18/2008	A plumbed emergency eyewash and drench shower were installed by ABC Plumbing Co in the acid mixing area. Employees have been trained in the proper use and maintenance of this emergency equipment.
2/1b	02/24/2008	A written hazard communication program has been developed (copy enclosed). All employees have been trained about the haz com program and its components. They have also been trained in the proper use of the specific chemicals they may use in performing their jobs.
2/4	<p>REQUEST EXTENSION OF ABATEMENT PERIOD</p>	<p>We ordered deluge showers on 12/15/15 (P.O. #76) and were informed that they would be shipped 12/16/15. Request extension until 01/17/16. As an interim safety precaution, we temporarily provided rubber water hoses at faucets near the plating tanks. Personal protective equipment is mandatory for this area.</p> <p><i>I certify that a copy of this request was posted on the employee’ bulletin board on (date) and that employees have been informed of their rights under the Act.</i></p> <p>OR</p> <p>We ordered deluge showers on 12/15/15 (P.O. #76) and were informed that they would be shipped 12/16/15. Request extension until 01/17/16. As an interim safety precaution, we temporarily provided rubber water hoses at faucets near the plating tanks. Personal protective equipment is mandatory for this area.</p> <p><i>I certify that a copy of this request was posted on the employees’ bulletin board on (date) and that employees have been informed of their rights under the Act.</i></p>

ABATEMENT CERTIFICATION FORM

AREA SUPERVISOR

Tennessee Department of Labor and Workforce Development
Division of Occupational Safety and Health
40 South Main St., Suite 500
Memphis, TN 38103

SUBMITTED BELOW IS THE ACTION(S) TAKEN TO CORRECT THE ALLEGED VIOLATION(S) LISTED ON THE CITATION(S) AS THE RESULT OF INSPECTION NUMBER: 1317011 ISSUED TO:

Mike Walker, 2445 Marvin Vaught Rd., Troy, TN 38260

Citation & Item #	Date Corrected	How Corrected

A COPY OF THE CITATION(S) WAS (WERE) POSTED AS REQUIRED BY TENNESSEE CODE ANNOTATED §50-3-307(a)(4).

_____/_____/_____
Employer Official's Signature Date Job Title



State of Tennessee
Department of Labor and Workforce Development
Division of Occupational Safety and Health (TOSHA)

**NOTICE TO EMPLOYEES
OF
INFORMAL CONFERENCE**

An informal conference has been scheduled with TOSHA to discuss the Citation and Notification of Penalty. The conference will be held at the TOSHA office located at 40 South Main St., Suite 500, Memphis, TN 38103 on _____ (date) at _____ (time). Employees and/or representatives of employees have a right to attend an informal conference. Post this notice twenty-four (24) hours prior to the informal conference. A copy of this notice must be brought to the informal conference.

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Department of Labor and Workforce Development
220 French Landing Drive
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Phone: 615-741-2793 Fax: 615-253-1623

Inspection Number: 1317011
CSHO ID: G9007
Optional Report #: 030-2018
Inspection Date(s): 05/18/2018
Issuance Date: 07/05/2018



Citation and Notification of Penalty

Company Name: Mike Walker dba M&K Home Improvement
Inspection Site: 1400 Vaden Street Union City, TN 38261

Citation 1 Item 1 **Type of Violation: Serious**

29 CFR 1926.503(a)(2): The employer did not assure that each employee exposed to fall hazards was trained by a competent person qualified in the areas specified in 29 CFR 1926.503 (a)(2)(i) through (viii):

In that two employees performing roofing activities approximately 25 feet above the ground level on the 4:12 pitched roof of a two-story hotel measuring approximately 224 feet long by 50 feet wide, were not provided with training in the recognition of fall hazards or the use of fall protection.

CORRECTED DURING INSPECTION

<u>Date By Which Violation Must be Abated:</u>	<u>Corrected During Inspection</u>
<u>Proposed Penalty:</u>	<u>\$1200.00</u>

Citation 2 Item 1 **Type of Violation: Willful-Serious**

29 CFR 1926.501(b)(10): Each employee engaged in roofing activities on low-slope roofs with unprotected sides and edges 6 feet or more above lower levels, was not protected from falling by guardrail systems, safety net systems, personal fall arrest systems, or a combination of warning line system and guardrail system, warning line system and safety net system, or warning line system and personal fall arrest system, or warning line system and safety monitoring system. Or, on roofs 50-feet (15.25 m) or less in width, each employee was not protected by use of a monitoring system:

In that two employees performing roofing activities on the 4:12 pitched roof of a two-story hotel measuring approximately 224' long by 50' wide were not protected from a fall hazard of approximately 25 feet to the ground level.

CORRECTED DURING INSPECTION

<u>Date By Which Violation Must be Abated:</u>	<u>Corrected During Inspection</u>
<u>Proposed Penalty:</u>	<u>\$5000.00</u>

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Company Name: Mike Walker dba M&K Home Improvement
Inspection Site: 1400 Vaden Street Union City, TN 38261

Steve Hawkins, Administrator
Division of Occupational Safety and Health

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PENALTY NOTICE

PENALTY PAYMENT DUE

Pursuant to T.C.A. §§ 50-3-402 through 408 your company has been assessed a monetary penalty. To avoid the addition of interest and delinquent fees, payment of this penalty is due in full no later than thirty (30) calendar days from the date you received this Citation and Notification of Penalty unless a notice of contest is filed. Penalties should be paid by check or money order payable to "Treasurer State of Tennessee." Mail payment to the following address:

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DELINQUENT FEES AND INTEREST

Pursuant to T.C.A. § 50-3-107 interest and delinquent fees will be assessed for all unpaid penalty amounts that are over thirty (30) calendar days from the date you received this Citation and Notification of Penalty.

Interest charges will be assessed every thirty (30) days, at an interest rate established pursuant to T.C.A. § 67-1-801(a)(1). In addition to the interest applied, a delinquent fee of ten percent (10%) will be assessed for each penalty unpaid at thirty (30), sixty (60), and ninety (90) days to a maximum of thirty percent (30%).

Unpaid penalties are referred to the Attorney General for collection at one hundred eighty (180) days past due.

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SUMMARY OF PENALTIES FOR INSPECTION NUMBER 1317011

Citation 1 Item 1, Serious	\$1200.00
Citation 2 Item 1, Willful-Serious	\$50000.00
TOTAL PROPOSED PENALTIES:	\$51200.00

Steve Hawkins, Administrator
Division of Occupational Safety and Health

Date