

May 3, 2021

Supervisor questions live wire, but work goes on: 2 suffer burns

Eight-foot buffer from power line was compromised

“Before we start drilling and filling, please tell me you got hold of the electric utility and they’ve de-energized that line,” asked Supervisor Jimmy Suarez. Jimmy pointed at a utility pole on the building site.

“No luck on that yet,” said site manager Bill Robbins. “But we should be able to get it switched off tomorrow.”

“You know my crew and I need at least eight feet distance at the bare minimum from that line before we move drills and rebar around,” said Jimmy.

“To be frank, I’d prefer twice as much wiggle room as that so no one

gets fried!” said Jimmy.

“I hear you,” said Bill. “Just get started drilling along the east side of the property. That way you’re all as far away from the power line as possible.”

“Hmm ... OK. That should work. For today at least,” Jimmy agreed.

Supervisor’s nerves on edge

All day long Jimmy kept one eye on his work and the other on the high-voltage pole and line. The job went smoothly as the crew managed to stay a safe distance away

(Please see Supervisor ... on Page 2)

Sharpen Your Judgment

Did lockout/tagout rule apply? Firm appeals fine

“I’ve got to say, it’s obvious this OSHA inspector has never worked with a band saw in his life,” said Supervisor Phil Hughes. “Otherwise, there’s no way he’d say our lockout/tagout steps weren’t thorough.”

“Like it or not, he wasn’t convinced,” said Safety Director Chris Taylor. “So we need to decide if we’re going to fight this fine.”

Couldn’t start up unintentionally

“We should,” said Phil. “OSHA claimed our workers were exposed to injuries if the saws started up unexpectedly while they were changing the blades on them. It said we should

have isolated the energy source.”

“Do you?” asked Chris.

“In a way, yes,” Phil said. “When changing a blade, workers put a cover over the start button. Then they lock that cover in place, put the key in their pocket and leave it there until the blade is changed.”

“Sounds pretty thorough,” Chris said. “But what if the circuit failed?”

“It’s never happened before,” Phil said. “And if it did, the saw would turn off, not on.”

The company fought the OSHA fine for not isolating energy sources during blade changes.

Was the fine dismissed?

This regular feature sharpens your thinking and helps keep both you and your firm out of trouble. It describes a real legal conflict and lets you judge the outcome.

Make your decision, then please turn to Page 4 for the court’s ruling.

Supervisor ...

(continued from Page 1)

while handling rebar and other materials and tools.

The crew finished drilling four holes, filling them with concrete and placing rebar in them before calling it an early day.

Will Supervisor pull the plug?

On Day 2, Jimmy didn't get the good news he'd expected from the site manager.

"No dice with the utility, sorry to say," said Bill.

"They can't cut off power to this area. We'll just have to be extra careful and stay eight feet away," said Bill.

"I know you can do it, and you and I both know this job's got to get done on time."

Jimmy felt his blood start to boil. He felt like telling Bill to take a long walk off a short pier but thought better of it. He couldn't afford to lose his job or cost the crew members theirs.

Going against his gut, he didn't protest and went to work.

Tempted fate once too often

"Steady! Steady! Slow it down," Jimmy bellowed as the crane operator lowered a heavy piece of twenty-foot-long rebar.

Two employees grabbed the end to guide it into a freshly drilled hole. No one noticed that the other end of the rebar was about to glance against the power line.

Thousands of volts of electricity shot through the rebar and shocked both workers.

They were thrown off their feet and knocked unconscious. Miracle of miracles, they each woke up a few minutes later but with painful, black burns on their hands and feet.

Meanwhile the power line snapped, and the rebar was left leaning on a fiber optic line strung below it.

Court: 'Pay up'

Both injured employees sued the property owner. The owner's based in Texas, the only state that doesn't mandate workers' compensation insurance, so comp claims weren't possible.

Result: A jury found the owner liable under ordinary negligence and premises liability theories. The company then lost on appeal, making it responsible for the two employees' medical bills, pain

and suffering, and lost wages.

The owner told the work crew to continue the job despite knowing the power line was too close for comfort.

The Supervisor recognized the problem from the start of the job but erred on the side of productivity above safety.

Key: Empowered employees can spot hazards because they're trained well and they know they can speak up to prevent a safety mishap.

Based on Los Compadres Pescadores v. Valdez and Teran; leagle.com/decision/intxco20210326523

What you need to know:

The best way to ensure safety working around power lines is to have them de-energized.

When that's not possible, your work plan must spell out how people maintain a safe distance at all times to reduce the threat of electrocution. Also: Take into account factors like strong winds knocking equipment over.

In some cases, non-conductive ladders can help reduce the risks of workers being shocked.

TEST YOUR KNOWLEDGE

'He's got a gun!' What to do when there's a shooter

The recent grocery store shooting in Boulder, CO, is a reminder of the importance of having a workplace emergency response plan for an active shooter incident.

Do your staffers know what to do to stay out of harm's way? Have them answer *True* or *False* to the following questions to find out.

1. If evacuation isn't possible, try to disrupt the shooter by yelling, acting aggressively toward him, throwing items or improvising weapons.
2. If evacuation or hiding isn't possible, you should call 911.
3. If you're hiding from a shooter, it's a good idea to lock or barricade the door.
4. When police officers arrive, ask them for help and which way you should evacuate the building.

ANSWERS

1. *False.* The police recommend that you run first. But if you can't evacuate, the next step is find a place to hide where the shooter isn't likely to find you. Fighting the shooter is the last resort.
2. *True.* Even if you're in a position where it's too dangerous to speak, it's helpful to call 911 and just let the dispatcher listen to what's going on.
3. *True.* Also: Try to hide behind large items like desks or cabinets. When hiding it's important to silence your phone and keep as quiet as possible.
4. *False.* Although police in this situation are likely to be shouting commands and pushing people unless they stop you to give you directions don't stop to talk. Just go past them and evacuate in the direction they're coming from.

Answers to the quiz:

Fines, accidents and damage supervisors could've prevented

News you can use to head off safety mishaps

In this regular section we highlight situations that led to fatalities, injuries, near-misses, damaged equipment or fines that frontline supervisors could've prevented.

Chemical leak tied to not following procedures

What happened: During maintenance work, employees at a Shell Oil Products refinery in Anacortes, WA, deviated from procedures and released 700 tons of toxic vapors. More than 550 people in the area were impacted with many of them needing medical attention.

What people did: The company was fined for violating EPA's Risk Management Program (RMP) requirements for:

- hazard assessment
- process safety information
- operating procedures and management of change, and
- mechanical integrity.

Result: The fines add up to \$191,000. Shell also paid \$420,000 to the Northwest Clean Air Agency and the Washington Safety and Health Agency for process safety violations.

Lesson: When handling any substance that could make people sick, it's crucial for Supervisors to ensure workers are following operating procedures and that the company RMP plan is up to date.

Leg amputation: \$225K, plus settlement agreement

What happened: An employee of a Fargo, ND, seed production company slipped into an operating grain auger while clearing sunflower seeds from

a grain bin. He suffered partial amputation of his leg.

What people did: OSHA found violations of grain handling, confined spaces, machinery and electrical regulations. Red River Commodities also failed to sufficiently train workers to recognize hazards.

Result: A settlement agreement that applies to the company's facilities in three states includes a \$225,000 penalty.

Lesson: To prevent steep fines and life-altering injuries, it's up to Supervisors to make sure employees receive training on workplace hazards and take proper safety measures.

Fire kills two workers: Almost \$118K in fines

What happened: A fire that killed two contractor employees was caused by a heat gun falling into a bucket of resin. A worker was using the heat gun to warm epoxy resin.

What people did: Industrial Services Group and Rimcor, both of Canton, NC, were cited by the North Carolina Department of Labor for improper handling of flammable liquids with a flashpoint below 100 degrees, as well as confined space violations.

Result: Industrial Services Group's fines total \$112,000 and Rimcor's total \$5,775. Rimcor is contesting its fine.

Lesson: Heat and flammable substances are a potentially lethal combination. Some helpful resources can be found at [osha.gov/fire-safety](https://www.osha.gov/fire-safety)

SAFETY TRAINING TIPS

■ Need to give feedback? Set realistic expectations

Before you give feedback, review what your expectations are first.

It's especially important if an employee missed goals. You want to make sure you both have a shared view of success.

Feedback conversations are most likely to be successful if you've both agreed on expectations.

Key: Make sure you document them to ensure results.

Info: letsgrowleaders.com/2021/02/11/how-to-provide-more-meaningful-performance-feedback

■ 4 ways to reduce injuries with older workers

Older workers don't get hurt as often as younger workers. But when they do, their injuries take longer to heal from.

So what steps can you take to reduce the chance older workers get hurt on your watch?

First look at the types of injuries older workers are most likely to suffer from:

- sprains (especially back sprains)
- overexertion in heat or cold
- falls, and
- repetitive motion injuries.

Action plan to follow

Here's how to reduce them:

- Always make sure floors and walkways are clear and as flat as possible.
- Reduce the amount of time older workers spend in extreme hot or extreme cold when possible.
- Find ways to help older workers get around tasks that require a lot of stooping and bending.
- Talk to older workers to find out which jobs add stress/strain to their bodies so you can address those issues.

Worker loses finger, then caught breaking safety rule: Can he sue if employer fires him?

Disregarded same PPE rule that led to amputation

Machine operator Josh Halliday was thankful to be back on the job after being furloughed.

“Great to have you back, Josh,” said Supervisor Andy Kent. “Since you’re technically a new employee again, you have to go through orientation.”

“That’ll be a snap,” he replied.

“Pay attention – there’s some important safety stuff you’re going to be tested on,” Andy said.

“I’ve been doing this 15 years. There’s nothing I don’t already know,” Josh said.

He aced the PPE questions on the test, including the one that said gloves aren’t supposed to be worn when using rotating equipment.

Strayed from training

Josh was wearing his favorite Kevlar gloves while using a milling machine to drill into a block of steel. Shavings wrapped around his right glove and started pulling his hand into the machine.

“Oh my — !” he shouted, reaching to slam the emergency stop button. But

instead of stopping the machine, the button fell off.

Because of how badly he was bleeding, Andy rushed Josh to the hospital instead of waiting for an ambulance.

One of Josh’s fingers was amputated as a result of the accident.

After returning from workers’ comp leave, Josh was made to sign a corrective action form that said he’d follow safety procedures.

But he continued to wear Kevlar gloves and he was fired. He sued the company, claiming it was retaliation.

Result: A trial court, then an appeals court, dismissed the retaliation suit. Willfully disobeying employer safety policy is a non-discriminatory, fireable offense, they said.

Key: To fight safety complacency, Supervisors can switch up work assignments, encourage employees to look out for one another, and ask them questions about how they do their jobs.

Based on Creveling v. Lakepark Industries.

What you need to know:

The placard on the milling machine in this case warned against wearing gloves.

You may want to review warnings on other machines on OSHA’s high-risk amputation list:

- powered saws
- drill presses
- shears, grinders and slitters
- mechanical power presses
- power press brakes
- powered/non-powered conveyors
- roll forming/bending machines
- food slicers, and
- meat grinders.

EDITOR-IN-CHIEF:

SCOTT BALL
sball@safetynewsalert.com

EDITOR:

BRIAN BINGAMAN

MANAGING EDITOR:

FRED HOSIER

PRODUCTION EDITOR:

P.J. FRONZEO

EDITORIAL DIRECTOR:

CURT BROWN

Supervisors Safety Bulletin (ISSN 1528-9834), issue date May 3, 2021, Vol. 22 No. 509, is published semi-monthly (24 times a year).

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting or other professional services. If legal or other expert assistance is required, the services of a competent professional should be sought. — From a declaration of principles jointly adopted by a committee of the American Bar Association and a committee of publishers.

Copyright © 2021 Safety | News Alert. Please respect our copyright: Reproduction of this material is prohibited without prior permission. All rights reserved in all countries.

Sharpen Your Judgment – The Decision

(continued from Page 1)

Yes. The company was able to get the fine dismissed when the Occupational Safety and Health Review Commission (OSHRC) heard its appeal.

OSHA argued its standard required locking and tagging out machines and disconnecting them from their energy sources.

It said doing one or the other wasn’t enough to meet its standard.

The company claimed that the lockout/tagout (LO/TO) process it had in place made it physically impossible for the machine to start up during service. It said the fine was unnecessary.

Experts testified for both sides, but

ultimately OSHRC said the LO/TO program met the standard for protecting workers from start-up. The fine was dismissed.

Analysis: Redundancies can’t hurt

While it may be extremely unlikely that every safety measure will fail, that’s partially the reason OSHA sometimes seems to require redundant safety measures for machines.

Fighting OSHA on technicalities rarely results in fines being dismissed, like this case.

Your best bet is to follow OSHA’s rules to err on the side of caution, no matter how unnecessary they may seem.

Based on Secretary of Labor v. Alro Steel.