

IN THE SUPREME COURT OF THE STATE OF NEVADA

PANELIZED STRUCTURES, INC.,  
Appellant,  
vs.  
STATE OF NEVADA DEPARTMENT  
OF BUSINESS AND INDUSTRY,  
DIVISION OF INDUSTRIAL  
RELATIONS,  
Respondent.

No. 54241

**FILED**

DEC 09 2010

TRACE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a petition for judicial review in a Nevada OSHA matter. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

Having reviewed the appellate briefs and joint appendix in this matter, we perceive no error in the district court's decision to deny judicial review, as the Nevada Occupational Safety and Health (NOSHA) Board's decision is based on substantial evidence and is not legally erroneous. NRS 233B.135(3) (governing the standard for reviewing administrative decisions); Wright v. State, Dep't of Motor Vehicles, 121 Nev. 122, 125, 110 P.3d 1066, 1068 (2005) (same). In particular, substantial evidence, including appellant's written procedures, supports the NOSHA Board's finding that the installation of appellant's hybrid roofing system falls sufficiently within the definition of steel erection activities, and thus, it is covered by 29 C.F.R. 1926, subpart R. 29 C.F.R. 1926.750; 29 C.F.R. 1926.751. Further, appellant has not met its burden, on appeal, to demonstrate that the administrative determination that appellant violated 29 C.F.R. 1926.757(b)(4) is arbitrary and capricious or

was based on unreliable evidence. Wright, 121 Nev. 122, 125, 110 P.3d 1066, 1068 (“The burden on appeal is on the party opposing the administrative decision.”); NRS 233B.135(2) (same); State Dept. Mtr. Veh. v. Kiffe, 101 Nev. 729, 709 P.2d 1017 (1985); Schaefer v. United States, 633 F.2d 945, 952 (Ct. Cl. 1980) (“In reviewing administrative decisions, hearsay evidence can, in appropriate cases, amount to substantial evidence.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Cherry, J.  
Cherry

Saitta, J.  
Saitta

Gibbons, J.  
Gibbons

cc: Hon. David B. Barker, District Judge  
William F. Buchanan, Settlement Judge  
Charles L. Geisendorf  
Jennifer J. Leonescu, Esq.  
Robert D. Peterson, Esq.  
Eighth District Court Clerk