

ILLINOIS POLLUTION CONTROL BOARD
June 14, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.)
)
 CONTINENTAL BUILDING CORPORATION) PCB 73-48
)
 and)
)
 CONTINENTAL ENVELOPE CORPORATION,)
)
 Respondents.)

Mr. George D. Karcazes, Assistant Attorney General, on behalf
of Complainant;
Mr. Sol L. August on behalf of Respondents.

OPINION AND ORDER OF THE BOARD (by Mr. Seaman):

On February 15, 1973, the Environmental Protection Agency filed a complaint against Respondents, Continental Building Corporation and Continental Envelope Corporation, both located in Chicago, County of Cook, Illinois, charging violation of Section 9(a) of the Illinois Environmental Protection Act. Respondent Continental Envelope Corporation is owner of a single chamber incinerator and Respondent Continental Building Corporation manages the building in which the aforesaid incinerator is located.

Specifically, the complaint charges Respondents with allowing the incinerator to be operated so as to cause or allow the discharge or emission of particulate matter (flyash and soot) into the atmosphere in amounts in excess of and in violation of that which is permitted by Rule 3-3.232 of the Rules as made applicable by Rule 2-2.11 of the Rules.

A hearing was held in this action on April 18, 1973. On March 24, 1972, Mr. Laxmi N. Kesari, an Environmental Protection Engineer for the Agency was conducting routine surveillance (R. 8). Mr. Kesari noted smoke emissions from Respondent's incinerator stack and proceeded to investigate.

Respondents do not dispute the fact that burning did take place in the incinerator on March 24, 1972, nor that said burning resulted in a violation of Rule 3-3.232. Respondents' main contention is that the burning in question was not done by any of their employees (R. 34). Respondents' witness, Mr. Jack Colitz, superintendent of the building, testified that an unidentified man was doing the burning and that he, Mr. Colitz, told him to stop (R. 36). Mr. Colitz further testified that immediately thereafter he took the necessary steps to render the incinerator inoperative (R. 37). The incinerator was dismantled and sealed by Respondent (R. 30).

Respondents' witness, Mr. John Wimmer, Plant Superintendent, testified that the incinerator had never been used by the Respondents in the three years during which he was employed by the Respondents (R. 56). Mr. Wimmer further testified that wastepaper and wood materials are disposed of in Respondents' compactor and hauled away (R. 50), and that any scrap paper that results from operations is sold (although no evidence other than Mr. Wimmer's testimony was offered) and is so valuable that it would not be burned (R. 63).

This Board finds from the record that the Agency presented evidence sufficient to prove a violation of Rule 3-3.232 by Respondents on March 24, 1972. Respondents' contention that none of its employees were responsible for the burning incident is unavailing. It is not incumbent upon the Agency to prove the identity of the person putting materials into the incinerator, as Section 9(a) prohibits not only the causing of air pollution but also the allowance thereof.

This Opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that:

1. Respondents shall cease and desist from violations of Section 9(a) of the Environmental Protection Act;
2. Respondents shall not reopen the subject incinerator without first applying for the appropriate permit from the Agency and installing control devices.

3. Respondents, Continental Building Corporation and Continental Envelope Corporation, shall individually pay to the State of Illinois the sum of \$50 each within 35 days of the date of this Order. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 14th day of June, 1973, by a vote of 3 to 0.

Christan L. Moffett