



NCDOL

N.C. Department of Labor

Luke Farley, Commissioner

Labor

LEDGER

www.labor.nc.gov

1-800-625-2267

Meet Commissioner Farley

On Jan. 2, I was sworn in as North Carolina’s 20th Commissioner of Labor. This is a responsibility I take seriously and am looking forward to working with you to make North Carolina the safest place to work and the best place to do business. But like you, I also have titles outside of work. My most important titles are husband and father.

My wife and I have been married for over 10 years, and we have three boys, including a five-month-old. Taking the Santa photo this year was quite the ordeal. We have our family traditions including Brothers’ Day for the boys. Last year we went to the arcade and played video games (they liked “Space Invaders”). Now a new brother has been added. Yes, they keep me very busy! I wouldn’t have it any other way.

A few personal nuggets:

- Raised in Onslow County
- Mowed lawns, cleaned rental properties and worked retail jobs growing up
- UNC-Chapel Hill graduate (Go Heels!)
- Wake Forest School of Law graduate
- Private practice attorney focused on workplace safety

We live in Raleigh so when you see me at work, on a baseball field or out and about, please be sure to say hello. I am always ready to talk baseball if you want. I am planning on getting around the state to visit all the bureaus and the district offices as soon as I can. I look forward to meeting everyone in person!

It is an honor to serve as your Commissioner of Labor. Together we can, and will, do great things to safeguard the lives and livelihoods of the people who make this state prosperous. Let’s get started!



Labor Commissioner Luke Farley with his family.

Welcome to NCDOL Commissioner Farley!

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By Kevin Frye, Administrator,
Retaliatory Employment
Discrimination Bureau

Q: I filed a Retaliatory Employment Discrimination Act (REDA) complaint a few weeks ago. Today, I received a letter saying that my complaint had been “screened out” and asking for more information or additional documents if I think my complaint does fall within the protections of REDA. I do not understand. I put all the information I have in the complaint and addendum. Why do you need more information?

A: When the Retaliatory Employment Discrimination Bureau (REDB) receives a complaint, that complaint is subject to a jurisdictional review. This review is to determine if the complaint meets the basic requirements of REDA found at NC General Statutes §§ 95-240 through 95-242. This review will provide information on whether an investigation of your complaint falls within the jurisdiction of the N.C. Department of Labor, and therefore, whether our bureau has the authority to investigate. The following four basic criteria all must be present for us to have jurisdiction to investigate the complaint.

1. The complaint must be filed within 180 days of the last adverse action.
2. The complainant/employee must be in an employee/employer relationship with the respondent/employer. Independent contractors fall outside our jurisdiction. Employees of a temporary employment agency (Temp Agency) often have a difficult time proving this requirement unless they can prove joint employment, or the complaint is filed against the Temp Agency and not where the complainant / employee is placed.
3. The complaint must be directly related to one of the following laws that fall into a protected activity:
 - Workers’ Compensation Act
 - Occupational Safety and Health Act of North Carolina
 - Control of Potential Drug Paraphernalia Products
 - National Guard Reemployment Rights
 - Authority over Parents of Juveniles Adjudicated Delinquent or Undisciplined
 - Discrimination against persons based on genetic testing or genetic information prohibited
 - Discrimination against any person possessing sickle cell trait or hemoglobin C trait prohibited
 - Wage and Hour Act
 - Pesticide Board
 - Domestic Violence
 - Mine Safety and Health Act
4. The complaint must allege an adverse action. The statute defines this as discharge, suspension, demotion, retaliatory relocation of an employee, or other adverse employment action taken against an employee in the terms, conditions, privileges, and benefits of employment. Constructive discharge does not meet this requirement. *(Note: constructive discharge or constructive termination are terms that describe when an employee feels forced to resign from their job because the conditions created by their employer have become so intolerable that a reasonable person would feel they are being forced to quit.)*

If your complaint was screened out, then one or more of the above requirements for us to have jurisdiction to investigate appear to be absent. If you have additional information that is directly related to the four noted criteria, please contact the Retaliatory Employment Discrimination Bureau at **1-800-NC-LABOR (625-2267)** and provide the additional information.

Recognition Roundup

“Recognition Roundup” identifies businesses that qualify for one of the N.C. Department of Labor’s recognition programs. Congratulations to all of the recent award recipients. For a complete list of **Star** and **SHARP** sites, visit the **NCDOL website**.

SHARP *Recertification

- | | |
|--|--|
| Donley’s Concrete Group LLC, <i>Raleigh</i> | Piedmont Endodontics, <i>Winston Salem*</i> |
| United Methodist Retirement Homes Inc., dba Croasdaile Village, <i>Durham*</i> | Piedmont Endodontics, <i>Asheboro*</i> |
| Well Spring Retirement Community Inc., <i>Greensboro*</i> | Piedmont Endodontics, <i>Kernersville*</i> |
| Parker Hannifin Corporation dba Purolator Facet Inc., <i>Greensboro</i> | Town of Pineville Public Works, <i>Pineville*</i> |
| Munden Funeral Home & Crematory, <i>Morehead City*</i> | Chatham Trades Inc., <i>Siler City*</i> |
| Cape Fear Public Utility Authority Wastewater Division, <i>Wilmington*</i> | City of Mount Holly Police Department, <i>Mount Holly*</i> |



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DEADLY

Mistakes



By Judyth Forte, State Plan Coordinator

Fatal Event: On Oct. 7, 2023, a 38-year-old man died from injuries sustained from a sawblade that kicked back into his chest after he attempted to cut plastic drainage pipe while it was laying directly on the ground.

Investigative Findings: The employee was working on a construction site installing polyvinyl chloride (PVC) sewage drainage pipes for residential development. The employer directed the employee to install a Y-joint at a service connection in a new drainage system. To comply with the request, the employee had to cut a 14-foot pipe in half. The employer provided a Stihl TS 420 cutoff saw with a Bonanza Blade House Combo Super Cut blade which was already installed in the saw. The employee was standing and leaning over the pipe, which was on the ground, when he made the cut. Because the pipe was unsupported, the excess pipe was not able to fall away from the cut. Instead, the pipe pushed back toward the cut, creating a wedging action which impeded the blade's rotation and caused the saw and blade to kick back toward the operator.

An employer representative stated that the saw and the cutting procedure had been used multiple times during the job. He reportedly selected the saw and blade specifically because they were the best tools for the job, trained his staff in the safe use of the saw and had observed and evaluated each of them making cuts.

Unfortunately, the guidance was not consistent with information from the saw and blade manufacturers. In the Stihl saw manual, it emphasized supporting hollow items while cutting, using a five-cut method when a pipe's outer diameter is more than the maximum cutting depth of the wheel, selecting a compatible cutting blade and not using saw blades that have abrasive materials on their sides. The cutting methods and blade selection are advised by the manufacturer to reduce the risk of pinching or binding of the blade and prevent saw kickbacks.

Discussion: When researching the tools provided for cutting the PVC pipe, it was revealed that the saw and blade were not a good fit for the job. In the manufacturer's manual, it stated that the saw

was "not suitable to cut wood and plastic objects. Unauthorized uses may result in death, serious injury, or property damage." The blade's specific use was for cutting concrete. Stihl warns against using a non-compatible saw blade, stating, "Using the wrong abrasive cutting wheel or cutting material for which the wheel was not designed may cause the wheel to wobble, shatter, break or increase reactive forces, causing serious or fatal injury."

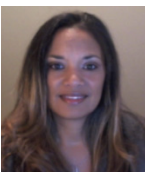
In addition, "some non-Stihl branded diamond cutting wheels are manufactured with abrasive material on their sides. Do not use such wheels since the abrasive material increases frictional forces and will lead to substantially increased reactive forces in a pinch or side loading situation."

During the investigation it was determined that the employer did not instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to their work environment to control or eliminate any hazards or other exposure to illness or injury. As a result, the employee failed to utilize manufacturer applications and safety warnings, which resulted in the accident and subsequent death of the employee. The employer provided the employee with a saw and saw blade to complete a job task that was contrary to the manufacturer's specifications. The employer representative did not understand the need for the pipe to be elevated when cut and did not intercede when the employee was cutting the pipe unsupported on the ground, since the cutting method was common practice.

Recommendations:

- ☠ Instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to their work environment to control or eliminate any hazards or other exposure to illness or injury. Warnings provided by equipment manufacturers on stickers or in the operator's manual should be reviewed with each employee prior to use.
- ☠ Only use equipment and attachments as recommended by the manufacturer and verify all the information before instructing others in the use of the equipment.
- ☠ Identify the material to be cut and match it with the blade's capabilities.
- ☠ Wear eye protection when operating a saw and avoid wearing loose clothing or jewelry that can be pulled into the saw.
- ☠ Stand to the side of the saw when operating it to avoid potential kickbacks.

WORKPLACE WORRIES



By Kisha Scotton, Administrator, Wage and Hour Bureau

Q: *If I hire an employee, may I hold their first paycheck until they quit or retire?*

A: Employers are required to pay wages owed either daily, weekly, bi-weekly, semimonthly or monthly. Employers may not hold a paycheck beyond these pay periods.

Q: *I have a policy that notes if an employee fails to give and work a two weeks' notice, their final paycheck will be reduced to minimum wage. If I reduce their paycheck to minimum wage and they fail to return company property, can I make deductions for the cost of the company property?*

A: Employees are required to be paid at least minimum wage. When an employer has a policy of reducing an employee's pay to minimum wage, deductions for the benefit of the employer cannot be made. Deductions for failure to return property, case shortages or inventory shortages, would reduce the employee below minimum wage, if the deduction is made after their rate of pay has been reduced.





Bulletin Board

Mine and Quarry Training

MSHA New Miner Training

March 24-26, *Spruce Pine*

April 14-17, *Wilkesboro*

MSHA Annual Refresher Training

March 26, *Virtual*

March 27, *Spruce Pine*

April 17, *Wilkesboro*

Mine Safety and Health Law School

May 20-22, *Morganton*

To register for any of these classes, **go online** or call the Mine and Quarry Bureau at 919-707-7932.

OSH Webinar Courses

Visit the **OSH Training Schedule Calendar** to view upcoming internet training and other safety courses.

Pre-Recorded Webinars

Watch the pre-recorded webinars available on our YouTube channel.

Wage and Hour Presentations

Investigators from the Wage and Hour Bureau offer presentations to employers, employees, high schools and career development organizations. The presentation covers the provisions of the Wage and Hour Act, minimum wage, overtime, record keeping, wage payment and youth employment. The presentation is designed to enhance North Carolina citizens' knowledge on labor laws and to inform employers and employees of their rights and responsibilities in wage and hour matters. Investigators conduct the presentations onsite at schools or local businesses if there is a minimum of 10 attendees.

To schedule a presentation, please email whbinfo@labor.nc.gov with the following information: requesting individual or business, location, desired topics and preferred dates for presentation.

Library Update

Click **here** for information on how to register with the Library to access streaming safety/health videos and/or borrow materials.

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