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It happened quickly — when Zell Eisenmann was away from the farm.

A simple job, really: A loose piece of roofing needed to be repaired, and Zell's brother would do it. Like he'd done a hundred other fixes at the family's Blissfield operation.

But that's when the roof gave way like a trapdoor, said Zell, 56, and Keith Eisenmann fell to his death during the middle of harvest at EGA Inc., a name based on Eisenmann's Golden Acres. Zell doesn't shy away from talking about Nov. 26, 2019, the day the farm dried corn, the day his **68-year-old brother died**.

The family anticipated a heavy wind storm that night, and Keith offered to fix the roof before it got any worse. What the Eisenmanns don't understand is why they must pay a \$12,000 fine for a failure to report a family member's death within 8 hours — when they're still grieving.

Now, the 1,400-acre corn-and-soybean farm is appealing the fine from the **Michigan Occupational Safety and Health Administration**. They say Keith co-owned the operation, and the fine and pocket full of grief accompanying it shouldn't be handed down to the widow.

"I had stressed to (MIOSHA) that the president is also the owner," Zell told *Michigan Farm News*. "He was the one deceased. And they are basically fining the widow because she assumes my brother's shares in the corporation as the deceased. That's just a transfer there, and the (MIOSHA) person said, 'Well, we are penalizing the entity, not the person — the entity.'"

Issues with fatality reporting are common at farming operations, said Craig Anderson, manager of agricultural labor and safety services for Michigan Farm Bureau. Each year, he handles about nine to 25 ag-related fatalities.

"Employers must report all work-related fatalities and certain injuries and illnesses regardless of industry," said Anderson, noting fatalities must be reported within 8 hours to the MIOSHA line 800-858-0397.

"There are very high mandatory penalties for failure to make 'immediate' reports."

That high penalty is what the Eisenmanns are appealing — \$5,000 for a failure to report the fatality, and \$7,000 for failures to name a spotter for Keith, fall protection, and inspect service.

"He didn't inspect the roof to see that it would support his weight before going on the roof, and he didn't have a spotter," Zell said. "In our letter (to MIOSHA), we just kind of tried to stress the fact that this was the owner repairing his personal property, which all of us do in our homes. We're trying to stress the craziness of this situation, I guess you could say. So, we have appealed, and we are waiting on the response from the appeal."

In 15 days, the family expects a response from MIOSHA. The state government agency did not respond when reached for comment by *Michigan Farm News*.

"In the eyes of the OSHA penalty, we are being fined because they are viewing (Keith) as an employee who was killed, not the owner," Zell said. "Even though he's the owner, they're not acknowledging the ownership. They're acknowledging, 'Well, he was an employee of the corporation.' It's a double standard, and I just think it needs to be clarified because it's wrong."

Anderson said there are two types of OSHA/MIOSHA required safety reporting: immediate and annual, with the size of the operation determining the level of filing by an entity. There are three employees at EGA Inc.

"The last thing we think about is calling a number that is difficult to find," Anderson said. "Most people believe a call to 911 or a hospital center is all that they need to do. If you went around and asked businesses, most would have a difficult time giving you an answer of what to do in that situation."

Anderson advised the Eisenmanns on the reporting. According to Zell, Anderson stressed telling MIOSHA that Keith served as president of the corporation, so he's responsible for reporting.

"There was not a notification by Keith obviously," Zell said. "And the remaining person — me, who found him — it was not the first thing on my mind. That, as the brother, as a partner, he was more of a concern to me than getting on the phone right away and calling OSHA."

The Eisenmanns anticipate a response from MIOSHA by the end of May.

"I think as farmers, we're all kind of naive to what OSHA does," Zell said. "There needs to be education now so farmers can understand their liabilities and what risks they take that could be serious penalties."

Since being fined, Zell's handling the operation differently.

"I'm fearful of certain things I do," he said. "It's changed my business outlook for next year. What do I want to risk doing myself versus hiring it out?" .