

Date Issued: August 14, 2008

Indexed as: BCSSAB 7 (1) 2008

**IN THE MATTER OF THE *SAFETY STANDARDS ACT*
SBS 2003, Chapter 39**

**AND IN THE MATTER OF an appeal to the
British Columbia Safety Standards Appeal Board**

BETWEEN:

An Unlicensed Individual

Appellant

AND:

BC Safety Authority

Respondent

REASONS FOR DECISION

**Appeal of Monetary Penalty issued pursuant to
sections 23(1) and 27(1) of the *Safety Standards Act* and
section 12(1) of the *Safety Standards General Regulation***

Board Member:

Abigail Fulton, Vice-Chair

Introduction

[1] This is an appeal of a Monetary Penalty issued by the BC Safety Authority (the Respondent) pursuant to sections 23(1) and 27(1) of the *Safety Standards Act* (the Act) and section 12(1) of the *Safety Standards General Regulation* (the Regulation).

Preliminary Issue to be decided

[2] Does the Appellant have sufficient grounds to appeal the monetary penalty?

Grounds for appeal

[3] The appeal board obtains its jurisdiction from section 52 of the *Safety Standards Act* which states that when hearing appeals the board must consider the maintenance and enhancement of public safety. The board's jurisdiction reflects the purpose of the Act to prevent, avoid or reduce the risk of personal injury or damage to property associated with regulated work and products.

[4] When considering an applicant's reasons for appealing a decision the board must be satisfied that the applicant has sufficient grounds or reasons relating to the purpose of the Act to have a right to appeal. Examples of sufficient grounds for appeal would be if the facts of a case are not as stated in a regulator's written decision or the decision was not made in accordance with the Act and regulations.

[5] The monetary penalty notice issued by the Respondent stated that it was imposed for the following reasons:

- a) performing regulated electrical work without a permit, contrary to section 27(1) of the Act and section 12(1) of the Safety Standards General Regulation;
- b) performing regulated electrical work without a valid license contrary to section 23(1) of the Act;
- c) failing to comply with a Compliance Order.

[6] The sections of the Act and Regulation referenced in the Monetary Penalty Notice are intended to avoid or reduce the risk to safety by ensuring that persons doing regulated work are qualified and that regulated products are installed, operated and maintained in compliance with the Act and regulations

[7] The information provided by the Appellant in the Notice of Appeal and the accompanying affidavit did not indicate that the Appellant did not perform the electrical work contrary to the Act and regulations as stated by the Respondent. Nor

did it state that the decision was not made in accordance with the Act and regulations.

[8] The Appellant stated, in section C of the Notice of Appeal, that he had not charged a fee and had thought it permissible to help a friend without a permit.

[9] An individual who swore an affidavit filed with the Notice of Appeal stated that his brother owned a rental property that needed electrical alterations and that the Appellant was a family friend who had offered his assistance to do the electrical work, The swearer of the affidavit stated that he was unaware that electrical installations could not be done to a rental property by the Appellant or that an electrical permit was required. He also stated that the Appellant had not charged a fee for his services.

[10] The Board did not consider the points raised in section C of the Notice of Appeal or in the accompanying affidavit to be relevant in the matter.

[11] For the reasons noted above, the board found that there were not sufficient grounds to warrant an appeal of the regulator's decision to issue the monetary penalty.

Time limit for filing an appeal

[12] If the board had found sufficient grounds for appeal it would still have to consider the question of the time limit for filing an appeal under the Act which, as amended by section 24 of the *Administrative Tribunals Act*, requires that an appeal be filed within 30 days of the decision being appealed. The Board may extend the time limit if satisfied that special circumstances exist.

[13] In this case some 42 days elapsed between the date of the Notice of Monetary Penalty issued on June 24, 2008 and the date the Notice of Appeal was filed on August 11, 2008. However, the Notice of Appeal did not provide any reasons that the Board could consider to determine if there were special circumstances that would allow it to extend the time limit

[14] On the basis of the reasons stated above the Appellant's application to appeal the decision was denied.