

Date Issued: May 8, 2006

Indexed as: BCSSAB 3 (2) 2005

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

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

**BETWEEN:**

**A Gas Contractor**

**Appellant**

**AND:**

**BC Safety Authority**

**Respondent**

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**REASONS FOR PRELIMINARY DECISION  
Recommendation to Mediate**

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Board Member:

Pinder K. Cheema, Q.C., Vice-Chair

**Introduction**

[1] A gas contractor (the Appellant) filed a notice of appeal (the Appeal) with the British Columbia Safety Standards Appeal Board (the Board) on November 22, 2005 pursuant to s. 51 (2) of the BC *Safety Standards Act*, SBC 2003, c.39 (the Act) which provides:

“If a safety manager makes a decision that could otherwise have been made by a safety officer, a person who would have a right to a review under section 49 has instead a right to appeal the decision to the appeal board.”

[2] The Appellant is a registered contractor under section 23 of the Act holding a Class B Gas “Contractor Licence with a Class A endorsement thereon. Class A and B certificates are defined in sections 6 and 7 respectively of the Gas Safety Regulation, BC Reg. 103/2004. He appealed the decision of the BC Safety Authority (the Respondent) dated November 18, 2005 revoking his Class A Certificate of Qualification.

[3] In a letter to the Board dated May 4, 2006, the Appellant proposed that a mediation be considered as provided for under Rule 23 of the Board’s Rules of Practice and Procedure.

[4] The Chair of the Board has delegated authority to me pursuant to section 26(9) of the *Administrative Tribunals Act* (ATA) to determine if a mediation is appropriate in this appeal. Section 26(9) provides:

“The chair or the chair’s delegate may hear and decide any interim or preliminary matter in an application, and for that purpose may exercise any of the powers of the tribunal necessary to decide the matter.”

I also note that Section 44 of the Act incorporates Section 29 of the ATA (among others) so it applies to the appeal board.

### **Position of the Parties**

[5] The Board is established under section 43 of the Act to hear appeals arising from decisions of safety managers.

[6] The Respondent is a non profit organization established under the *Safety Authority Act* of British Columbia to administer technical safety in the province, including gas safety.

[7] The Appellant filed a letter with the board on May 4, 2006 wherein he proposed a mediation to attempt to settle the appeal without the need of a hearing.

[8] The parties discussed the proposal at an appeal management conference on May 5, 2006.

[9] The Respondent opposed the Appellant’s application because, in his opinion, a mediation would be unproductive in this case. In support of his view, the Respondent stated that the parties met in January 2006 and concluded an agreement with which the Appellant was subsequently unwilling to comply.

[10] In support of his application, the Appellant noted that the meeting between the parties did not deal with issues which were specifically related to this appeal.

[11] It was not stated by either party, nor is there evidence to suggest, that the parties were assisted at their January 2006 meeting by a neutral third person specially trained to help people work together to reach a resolution to a dispute that is acceptable to everyone involved.

### **Conclusion**

[12] Having carefully considered the submissions of both parties it is the Board's view that a mediation may be helpful in resolving the issues outstanding between them. Accordingly, the board recommends that the parties consider engaging in mediation. The Board's Registrar is hereby directed, pursuant to Rule 23 of the Board's Rules to forward to the parties a list of mediators approved by the Board and the parties are encouraged to select a mediator from the list as soon as possible.