

Date Issued: March 30, 2022
Appeal No. SSAB 49 – 2021
SSAB 50 – 2022

Indexed as: BCSSAB 49-2021 (1) BCSSAB 50-022
**IN THE MATTER OF THE SAFETY STANDARDS ACT,
S.B.C. 2003, Chapter 39**

**AND IN THE MATTER OF an appeal to the
BRITISH COLUMBIA SAFETY STANDARD APPEAL BOARD**

BETWEEN:

██████████

APPELLANT

AND:

Technical Safety BC

RESPONDENT

REASONS FOR DECISION

Safety Standards Appeal Board:

Jeffrey Hand

Representing the Appellant:

██████████

Counsel for Technical Safety BC:

Mollie Clark

INTRODUCTION

[1] The Appellant has filed two appeals in respect of regulated gas work performed at her home located at ██████████, Langley Township. In her Notice of Appeal SSAB 49-2021 she asks the Board to require the Respondent to note a Safety Hazard Report on gas installation permit #9829365-2020. In her Notice of Appeal SSAB 50-2022, the Appellant is seeking an order requiring the Respondent to re-open that same permit which had been closed in 2020.

[2] Because the issues raised in SSAB 49-2021 and SSAB 50-2022 concern the same work performed at the same property the Board directed at an Appeal Management Conference held on January 27, 2022, that these two appeals be consolidated and heard together.

[3] At that Appeal Management Conference, the Respondent took the position that neither of these appeals raise issues that are properly the subject of an appeal permitted under the *Safety Standards Act, SBC 2003 Chapter 39* (the “Act”) and as such the Board has no jurisdiction to determine these issues. The Appellant disagrees.

[4] The Board directed that the parties provide written submissions on the jurisdiction issue so that it could first be determined if the appeals can proceed further. These reasons constitute the Board’s decision on the jurisdiction issue.

Background

[5] These appeals arise out of a set of circumstances that have transpired over the past two years. While the merits of the appeals are not being considered at this time, the Appellant largely relies on those facts in support of her argument that the Board has jurisdiction. Accordingly, it is useful to review those facts to understand why these appeals have been filed.

[6] In 2020 the Appellant was constructing a new home located at [REDACTED] Langley Township, British Columbia. (“the Property”). The Appellant retained a mechanical contractor, [REDACTED] to perform certain heating ventilation and air conditioning (“HVAC”) work at the Property which included, amongst other things, the installation of 3 gas fired furnaces and a unit heater in a barn on the Property. [REDACTED] hired a sub-contractor, [REDACTED] Ltd to perform portions of that work.

[7] The Appellant also hired a second mechanical contractor, [REDACTED], to provide other mechanical services at the Property. In January 2020, [REDACTED] raised concerns about whether the regulated work being done by [REDACTED] and/or [REDACTED] was authorized under a gas installation permit and whether the work was being performed by a licensed gas contractor. [REDACTED] communicated these concerns to the Appellant and to [REDACTED], a Safety Officer in the employ of the Respondent.

[8] Following these concerns having been raised [REDACTED] hired 119151 BC Ltd. doing business as [REDACTED] to obtain a gas installation permit and to complete the work on the furnaces and unit heater. [REDACTED] obtained gas installation permit number 982936-2020 on February 21, 2020.

[9] [REDACTED] thereafter observed deficiencies in the work done by [REDACTED] that he considered did not comply with the applicable codes. He raised these non-compliances with Safety Officer [REDACTED] on or about March 17, 2020.

[10] On or about March 19, 2020, [REDACTED] submitted a declaration to Officer [REDACTED] that the rough-in work on the gas installation he had performed to date was complete and there were no hazards and no noncompliant work and the rough-in work was ready for inspection.

[11] In the normal course, the Respondent does not physically inspect every job site and it has the discretion to accept contractor declarations concerning regulated work. In March of 2020 the Province of BC was in the early stages of the COVID-19 pandemic and the Respondent was in the process of closing its physical office and reducing its contact with the public, which necessarily would reduce or limit site inspections. [REDACTED] chose not to inspect the Property and he issued a Certificate of Inspection dated March 19, 2020, approving of the rough-in gas installation.

[12] Upon learning of the deficiencies, which [REDACTED] described as safety concerns, the Appellant submitted a Safety Hazard Report to the Respondent on April 6, 2020. She expected that by doing so this would trigger a requirement that the deficiencies be corrected, and that the Respondent would ensure that this was done.

[13] On April 16, 2020, the Appellant terminated her contract with [REDACTED].

[14] On April 20, 2020, the Appellant requested a Safety Manager's review of [REDACTED] decision to pass the rough-in inspection.

[15] On April 23, 2020, the Appellant wrote to [REDACTED] and requested that he correct the deficiencies in his work. [REDACTED] replied that day saying that he had not been paid for his work and that because [REDACTED] contract had been terminated, he would in turn, be terminating his contract. He advised the Appellant to hire a new contractor to finish the work.

[16] In or about the same time, [REDACTED] spoke to Safety officer [REDACTED] again about his concerns with the safety of the work done by [REDACTED].

[17] ██████ submitted a request to the Respondent to close his permit, which Officer ██████ accepted. ██████ did so notwithstanding having been notified by ██████ that the furnace venting was deficient and having received the Hazard Notification from the Appellant. Safety Officer ██████ was apparently of the view that since the gas appliances had not yet been commissioned and the gas was not turned on, there were no safety hazards on site even if there were deficiencies on the work performed by ██████.

[18] The Appellant expanded the scope of ██████ work to include completion of the three furnaces and unit heater that was to have been performed by ██████ ██████ amended a gas installation permit #969729-2020 that he had obtained on January 22, 2020, to include responsibility for the work that ██████ had started and now abandoned at the rough-in stage.

[19] ██████ proceeded to correct the deficiencies in the work and ultimately to finish the installation of the three furnaces and unit heater in or about September 2020. This work was inspected by Safety Officer ██████ and a Certificate of Inspection approving of the work was issued on October 9, 2020, indicating that the hazards, previously reported by the Appellant, had now been eliminated. This took the form of a Hazard Elimination Certificate of Inspection.

[20] To this point there had still been no decision rendered by the Safety Manager concerning the review that had been sought by the Appellant in April 2020. The Appeal Record contains numerous email exchanges between the Appellant and the Respondent asking to move that review forward in a timely way. It is not necessary to review all of these emails in detail for the purposes of this decision. Suffice it to say that the Appeal Record contains evidence of a growing level of frustration on the part of the Appellant on the lack of action in response to her notification of safety hazards on her site made in March 2020, both by herself and by her contractor ██████, as well as the delay in rendering a decision from the Safety Manager on her request for a review of the inspection that was passed by Safety Officer ██████.

[21] On November 2, 2020, ██████, Regional Business Leader for the Respondent, advised the Appellant that he had assumed conduct of her complaints, he had reviewed the issues, and had contacted and/or taken enforcement action against ██████.

Ltd. and [REDACTED] and that he “considered the matter closed”.

[22] In December 2020 the Appellant contacted the Office of the Ombudsman with a complaint about the Respondent’s handling of her Safety Manager Review and its conduct in relation to the work done on her Property. She was advised to raise her concerns with the Respondent directly.

[23] On January 4, 2021, the Appellant made a Freedom of Information Request (“FOI”) of the Respondent to produce the whole of their file in relation to the Property. A response to the FOI request was provided to the Appellant on February 16, 2021.

[24] The Appellant filed a second Safety Manger Review request on Jan 8, 2021. She requested that the Certificate of Inspection issued by Officer [REDACTED] in March 2020 be reversed (which was the review she had sought in her first Safety Manager review). The Appellant added a second issue which was to review the decision to record her name on the Safety Hazard Elimination report issued in October 2020 following the completion of the work done by Mr. [REDACTED]

[25] On April 16, 2021, Safety Manager [REDACTED] issued a written decision in response to the two review requests that had been made. I pause here to note that a full year had passed since the Appellant had first asked for the review in April of 2020. While the COVID-19 pandemic could certainly explain some of this delay, taking a year to respond to this review request seems inordinate.

[26] Safey Manager [REDACTED] determined that the Safety Officer [REDACTED] should not have passed the rough-in inspection in March 2020, and that the inspection record should be reversed. He said this would occur within 30 days. The reissuance of the Certificate of Inspection to show a “FAILED” inspection was not completed until August 31, 2021.

[27] Secondly, he determined that following upon the termination of [REDACTED] contract and the retention of a new contractor to complete that work it was appropriate that the Hazard Elimination report prepared in October 2020, be issued in the name of the Appellant as the homeowner of the Property.

[28] The Appellant filed an appeal with the Board, SSAB 45-2021, seeking a review of Safety Manager [REDACTED] decision. The Appellant was seeking the removal of her name from the Certificate of Inspection, Hazard Elimination Report. Before that appeal was heard the Respondent agreed to remove the Appellant's name from the Certificate of Inspection. Upon notification of the Respondent's agreement to make this change, the Board issued an Order allowing the appeal and directing the removal of the Appellant's name.

[29] On December 17, 2021, the Appellant contacted the Ministry of the Attorney General and Minister Responsible for Housing to complain about the conduct of the Respondent in this matter. On January 31, 2022, she was advised that the Ministry had made inquiries with the Respondent, and it was agreed that errors had been made. The Appellant was told to direct any further concerns she might have to the Respondent.

[30] On December 22, 2021, the Appellant filed appeal SSAB 49-2021 seeking to have the Hazard Notification she filed in April 2020 noted on permit number 982936, the permit taken out by [REDACTED] in February 2020.

[31] On the same day the Appellant filed appeal SSAB 50-2022, asking the Board to require the Respondent to re-open permit number 982936, which had been closed since April 2020.

Parties' Positions on the Board's jurisdiction

Respondent

[32] The Respondent submits that sections 49 and 52 of the *Act* only provide for the right of appeal from decisions of the Safety Manager. The Respondent submits that there has been no decision of the Safety Manager on the issue of whether permit 982936 should be reopened and no decision on whether the Safety Hazard should be noted on that permit if it was to be reopened. They say there has been no request for a Safety Manager review made by the Appellant and thus there is no "decision" that can properly be the subject of an appeal before the Board.

[33] The Respondent also submits that the time limit for filing an appeal is 30 days after the Appellant receives notice of the written decision and so if there was a decision on the foregoing issues it occurred, in the case of the closing of the permit in April 2020 and in the case of the

Hazard Notification in October 2020. In either case, more than 30 days before these appeals were filed.

Appellant

[34] The Appellant submits that the Board has broad jurisdiction to hear appeals on any issue by reason of sections 60(1) and 52(1) the *Act*, which provide:

60 (1)The appeal board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under this Act and to make any order permitted to be made.

52 (1)When hearing appeals the appeal board must consider the maintenance and enhancement of public safety.

[35] Reading these provisions together the Appellant submits that because she alleges her home was left in an unsafe condition and that the rough-in inspection ought not to have been passed, the Board has jurisdiction to grant the relief she seeks and in addition to find that the safety officers themselves contravened the *Act* by permitting an unsafe condition to exist.

[36] The Appellant submits that she is not out of time to bring this appeal these appeals because she was unaware until approximately April 2021 that permit 982936 had been closed. She says that the overall circumstances of her dispute, which has continued for some two years, constitute special circumstances for which the Board can extend the time for filing an appeal.

Analysis

[37] It should first be noted that the Board is created by statute and thus its jurisdiction to hear appeals and its power to issue remedies are only those that are specifically set out in the *Act*. The Board is not a court of law. It does not have inherent jurisdiction to issue any remedy that it might determine to be just. It can only do what the *Act* allows it to do.

[38] The jurisdiction of the Board is best understood by considering the whole of the *Act*, including those provisions that set out the powers of Safety Officers and Safety Managers and

the process by which disagreements about the exercise of those powers can come before the Board by way of an appeal.

[39] Section 18 sets out the types of decisions Safety officers can make:

Powers of safety officers

18 (1) For the purposes of this Act and in the course of performing their duties, safety officers may exercise any or all of the following powers and any other powers assigned to them under the regulations:

- (a) issue, suspend or revoke a permit under this Act;
- (b) when issuing a permit, include terms and conditions;
- (c) if satisfied that there are reasonable grounds to do so, enter any premises at any reasonable time for the purpose of
 - (i) inspecting regulated work, regulated products and records respecting regulated work or regulated products, or
 - (ii) investigating any incident;
- (d) inspect all regulated products and regulated work found on any premises by a safety officer;
- (e) require any regulated product that is being inspected to be started, turned on, put in motion, tested, used, operated, stopped or turned off for the purpose of its inspection by a safety officer;
- (f) require the production to a safety officer of all plans and specifications a safety officer considers necessary for the inspection of any regulated work or regulated product that a safety officer is inspecting;
- (g) after giving reasonable notice of the intention to do so, remove or take samples of or direct the removal of a regulated product or a part of a regulated product, or require any of them to be provided or delivered to a safety officer;
- (h) require that the names and addresses of licensed contractors or other persons engaged to do regulated work be provided, together with a statement setting out their qualifications, the nature of the work they do and when and where it is done;
 - (i) require that a person provide evidence that this Act and the regulations, and any safety order, compliance order, discipline order or decision of a provincial safety manager, a local safety manager or the appeal board is being, or has been, complied with;

- (j)if the presence of a person is necessary in respect of a regulated product or regulated work about which the person has particular knowledge, on reasonable notice, require that a person come to a location at a specified time to answer oral or written questions;
- (k)require that a person produce any record for inspection;
- (l)require a person to produce for inspection any licence, permit, other permission, certificate or any other document issued under this Act to the person by the minister or a local government;
- (m)temporarily remove a record to copy it;
- (n)during or after completion of regulated work, require a certificate or affidavit, given by a person recognized by the regulations as having the authority to provide a certificate or affidavit, that the specified regulated work meets the requirements of this Act and the regulations;
- (o)issue a compliance order;
- (p)issue a variance;
- (q)recommend that the appropriate safety manager impose a monetary penalty.

[40] Section 15 sets out what Safety Managers can do:

15 A provincial safety manager may exercise any or all of the powers of a safety officer and may do one or more of the following:

- (a)issue, suspend or revoke a certificate of qualification;
- (b)issue, suspend or revoke a licence;
- (c)when issuing a licence, include in the licence a term or condition;
- (d)issue a safety order;
- (e)review a decision of a safety officer appointed by the minister;
- (f)issue a directive or discipline order;
- (g)delegate any of the powers under paragraphs (a) to (f) of this section to a safety officer appointed by the minister;
- (h)delegate to a safety officer or class of safety officers the power to issue a licence for a licensed contractor or certificate of qualifications to an individual;
- (i)require a person who holds a licence, certificate, permit or other permission under this Act to be re-examined as to their qualifications to maintain or renew the licence, certificate, permit or other permission;

(j)if the regulations require persons who hold a licence, certificate, permit or other permission under this Act to complete continuing education, recognize, devise or administer training or other activities as continuing education;

(k)recognize training, and recognize, devise or administer examinations, for one or more of the following purposes:

(i)qualifying for a licence, certificate, permit or other permission under this Act;

(ii)a safety order under section 31 (4) (e);

(l)evaluate the qualifications of a person who applies for a licence, certificate, permit or other permission under this Act.

[41] The foregoing sections are relevant, not just because they describe what safety officers and safety managers may do, but because it also provides context for the types of decisions that can be appealed. This is evident when one looks at the requirements in the *Act* for notifying persons affected by decisions relating to these powers. The affected party is to be told of the decision, with written reasons, and be informed of the right to appeal those decisions to the Board.

[42] For example, section 27 (1) says the following in relation to the issuance of permits, certifications, or other permissions:

Issue of permissions

27 (1)If required under this Act, a person must obtain a permission to undertake regulated work or use a regulated product.

(2)If a person applies for a permit, certificate or other permission and a safety manager or safety officer refuses to issue it, or issues it with terms or conditions attached to it that are not requested or agreed to by the applicant, the safety manager or safety officer who deals with the application must inform the applicant and, if the applicant requests written notice, give the applicant written notice of that decision.

(3)A permission issued under subsection (1) is subject to terms and conditions provided for under the regulations or attached to the permission by a safety manager or safety officer.

(4)A person who holds a permit issued under this section must comply with the terms and conditions of the permit.

(5)A written notice under subsection (2) must state the reasons for the decision and that the applicant has the right to make a written request for a review by a safety manager under section 49 or to appeal to the appeal board.

(6)A permit, certificate or other permission issued under this section may be renewed.
(emphasis added)

[43] Another example is found in Section 38 regarding compliance orders:

Compliance orders

38 (1)A safety officer may, in writing, issue to a person a compliance order under this section if

(a)in the opinion of the safety officer there is a risk of personal injury or damage to property because

(i)regulated work is being carried out in a manner that does not comply with this Act and the regulations, or a requirement, term or condition of an alternative safety approach, or

ii)a regulated product is being used or disposed of in a manner that does not comply with this Act and the regulations, or a requirement, term or condition of an alternative safety approach,

(b)a person

(i)fails to comply with a requirement of a safety officer or safety manager who is carrying out duties assigned under this Act, or

(ii)obstructs, hinders, delays or fails to cooperate with or provide necessary assistance to a safety officer or safety manager who is carrying out duties assigned under this Act, or

(c)a person fails to comply with this Act and regulations.

(2)A compliance order under subsection (1) must

(a)name the person to whom the order is addressed,

(b)specify the action to be taken, stopped or modified,

(c)state the reasons for the order,

(d)state that the person may, in writing, request a review by a safety manager under section 49 or may appeal to the appeal board,

(e)be dated the day the order is made, and

(f)be served on the person to whom it is addressed.

[44] There are six similarly worded provisions in the *Act* identifying the need for a decision and the right to seek a Safety Manager review of that decision or to file an appeal directly to the Board (see s. 23(8), 26(5), 31(6), 40(9), 42(2), 50(3) of the *Act*)

[45] The Appeal Board is established by Part 8 of the *Act*. Section 49 makes provision for seeking a review of a Safety officer's decision:

Review of safety officer's decision

[46] 49 (1) Within 30 days of the date of a safety officer's decision, a person who is served with written notice of the decision may, in writing, request a review by a safety manager of the safety officer's decision and must state the reason for the request.

[47] Section 50 makes provision for the decision of the Safety Manager to be provided along with notice of the right to appeal that decision to the Board:

Safety manager's decision

50 (1) Unless the safety manager refers the matter to the appeal board under section 49 (5), a safety manager must, as soon as practicable after receiving a request under section 49 or initiating a review under section 49 (6), review the safety officer's decision.

(2) The safety manager

(a) must hear the submissions of the person who requests a review of a safety officer's decision,

(b) may review the matter on the basis of documents only, or may make any investigation of the matter that the safety manager considers necessary,

(c) may, by written order with reasons, confirm, vary or reverse the safety officer's decision, substitute a decision or refer the matter back to the safety officer with or without directions,

(d) must serve notice of the order on the person who makes a request under section 49, and

(e) must provide a copy of the order to the safety officer.

(3) The notice under subsection (2) (d) must state the reasons for the safety manager's decision and that the person who requested the review has the right to appeal the decision to the appeal board.

(emphasis added)

[48] The right to appeal those decisions to the Board is set out in the following provisions:

Right to appeal

51(1)[Repealed 2004-45-157.]

(2)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.

(3)[Repealed 2004-45-157.]

(4)The appeal board must decide

(a)who is a party to the appeal.

(b)[Repealed 2004-45-158.]

(5)The appeal board must serve notice of the date, time and place of the hearing to the parties to the appeal, any intervenors and any other person it considers to be sufficiently interested in the appeal.

[49] The process by which the Board deals with appeals is set out in sections 52, 59, and 60

Appeal board's hearing

52(1) When hearing appeals the appeal board must consider the maintenance and enhancement of public safety.

59 The appeal board must decide the matter by confirming, varying or reversing the decision or by dismissing the appeal.

60(1) The appeal board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under this Act and to make any order permitted to be made.

[50] The Board has previously held in *BCSSAB 34 (1) 2020* that section 49 of the *Act* does not require that a safety manager review must be requested before filing an appeal. Such an interpretation would be at odds with the sections enumerated above which provide for appeals directly to the Board. An affected party may seek a Safety Manager review or may appeal directly to the Board. There need not be a Safety Manger review in every instance although that is certainly a common route for appeals to take. What is important to observe, however, is that appeals only arise out of decisions made in respect of the exercise of certain powers in relation

to things like, the refusal to issue a permit, or certifications, compliance orders, monetary penalties etc.

[51] The decisions made in the exercise of these powers are to be set out in a written decision with explanatory reasons. This is understandable. Having a written decision with reasons provides a context for the appeal and allows the Board to clearly understand what is the decision that is under appeal and why was it issued.

[52] It is also apparent from a review of the foregoing provisions that the Board has not been given the jurisdiction to have a general oversight role over the Respondent or to receive complaints about the Respondent's administrative processes or even their conduct. That is not to say that the Respondent's conduct cannot be the subject of commentary by the Board. It certainly can if it is associated with an appeal on one of the matters contemplated under the *Act*.

[53] It is also apparent that not every action taken by the Respondent constitutes a "decision", as that term is used in the *Act*. There could be any number of actions taken by the Respondent in the day-to-day administration of its affairs that are not decisions that can be appealed.

[54] I disagree with the Appellant's submission that section 60 of the *Act* provides the Board with the right to determine every issue of fact, law and discretion that might be of concern to a party. It is only those matters of fact, law, and discretion that are required to be determined in an appeal under the Act on which the Board's jurisdiction is engaged.

[55] The interpretation urged upon me by the Appellant suggests the Board's jurisdiction is very broad and intended to consider any action taken by the Respondent as a "decision" that is capable of being appealed to the Board. Reading the *Act* as a whole does not support this interpretation in my view.

[56] With these comments in mind, I turn to the specific issues that the Appellant seeks to have determined in these appeals.

The reopening of the closed permit?

[57] The Appellant is seeking to have a permit issued to ██████ gas in 2020, and which had

previously been closed, reopened.

[58] The *Act* contemplates permits being the subject of appeals only in the context of those issues described in section 27(2), such as the refusal to issue a permit, the cancellation of a permit, or the imposition of terms in a permit. For example, a decision to refuse to issue the permit or to impose conditions, might be something the permit holder could take issue with but that is not what has occurred in this instance. The act of closing a permit is not, in my view, a decision that is capable of appeal.

[59] Moreover, the Appellant is seeking to require a permit issued in the name of a third party, in this case [REDACTED], to be altered or dealt with in a different way. While the Appellant is the owner of the property where the regulated work was being performed, she did not take out this permit. It would be inappropriate to allow non-permit holders to bring appeals seeking to alter permits that were issued to other parties.

[60] Lastly, it is unclear what purpose is served in reopening a permit in respect of work that has long since been completed and perhaps more importantly, which has also since been approved. Any hazards at the Property have long since been addressed.

[61] For all the foregoing reasons I find that the Board has no jurisdiction to hear an appeal that seeks to reopen this permit.

Noting the Safety Hazard report on the closed permit

[62] As set out above, the *Act* contemplates appeals to the Board arising from decisions, either of Safety Officers or Safety Managers. There is no decision that was ever taken not to note safety hazards on this permit. The *Act* provides for appeals from actual decisions, where the Board can “confirm, vary, or reverse” a decision as set out in section 59 of the *Act*. There is no evidence before me that there was a decision made not to note the safety hazard on the closed permit. It simply was not done but that does not make it a decision that can be appealed.

[63] The remedy the Appellant seeks is not to vary or reverse a decision; it is to require something to be done in the first instance – to amend the closed permit to include a notation of

a hazard. The *Act* does not permit the Appellant, by way of an appeal, to have a notation made on a closed permit where there is no decision to that affect.

[64] This ground of appeal also suffers from the same defect as reopening the closed permit. It is not the Appellant's permit. The Appellant does not have a say in how a permit issued to a third party is to be administered by the Respondent.

The conduct of the safety officers

[65] While neither notice of appeal lists the foregoing issue specifically, I am mentioning it because the Appellant's submissions say that she is seeking a review of the conduct of the Safety officers, and she submits that the Board can find those officers themselves contravened the provisions of the *Act* by allowing an unsafe condition to exist on her Property.

[66] It is important to note that Part 1 of the *Act* establishes its application to "persons doing regulated work". Accordingly, the provisions of the *Act* govern how persons who perform regulated work are to conduct themselves and what enforcement actions might be taken against them when they fail to comply with the *Act*. The extent to which Design One, LJ3 Holdings and D John may be subject to enforcement under the *Act* is not before me in this appeal. But more importantly, for the purpose of determining the jurisdiction of the Board, the Safety Officers employed by the Respondent are not "persons doing regulated work".

[67] My determination of the jurisdiction issue in no way approves of what that has transpired over the course of the last two years, nor does it diminish in any way the concerns that the Appellant raised. There were serious issues of concern. The Safety Manager's review and the response the Appellant received from the Respondent's political masters all concede that errors were made. However, the issue before me is whether the conduct complaints of the Appellant are matters which can properly come before the Board in the form of an appeal.

[68] The Appellant says the Board has an obligation to consider the maintenance and enhancement of public safety in determining appeals. The Board agrees. But the Board must consider that issue when determining matters that are properly the subject of an appeal under the *Act*. There is nothing in the *Act* which empowers the Board to review the conduct of the Safety Officers outside the confines of an appealable issue. Absent an appeal on an issue

contemplated under the Act, the Board has no general oversight role over the Respondent.

[69] Having found that these two appeals are not in respect of matters on which the Board has jurisdiction then it follows that the officer's conduct associated with those matters is likewise not the proper subject of an appeal.

Extending the time for filing these appeals

[70] Since I have found that there is no jurisdiction to hear these appeals, it is not necessary to consider the issue of whether the time to file the appeals should be extended.

Conclusion

For the foregoing reasons, these appeals are dismissed for lack of jurisdiction.

Signed;

A handwritten signature in black ink, appearing to read 'J. Hand', written in a cursive style.

Jeffrey Hand, Chair