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**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 Contractor**

**Appellant**

**AND:**

**BC Safety Authority**

**Respondent**

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**REASONS DECISION**

**Jurisdiction of the Board to Consider an Appeal filed after the 30 day time period  
specified by section 24 of the *Administrative Tribunals Act*.**

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Board Members:

Abigail Fulton, Vice-Chair.

**Introduction**

[1] This is an appeal of a Compliance Order issued under section 38 of the *Safety Standards Act*, SBC 2003, c.39 (the Act) by the BC Safety Authority (the Respondent) and served on the Appellant on November 18, 2006. The Notice of Appeal was filed on January 5, 2007.

### **Preliminary issue to be decided**

[2] The question of the Board's jurisdiction to consider the appeal arose because the Notice of Appeal was filed late, pursuant to section 24 of the Administrative Tribunals Act, SBC 2004 c.45 and the Board's rules, which require an appeal to be filed within 30 days of the decision being appealed.

### **Appellant's position**

[3] The Appellant stated that the Notice of Appeal had been filed within 60 days of the Compliance Order and, taking into account holidays pursuant to the Board's rule 7.4, within 30 days of receiving an e-mail regarding the Compliance Order from the Provincial Safety Manager dated November 30, 2006,

### **The law**

[4] Appeals under section 51 of the *Safety Standards Act* (the Act) must be filed within 30 days of the decision being appealed in accordance with section 24 of the *Administrative Tribunals Act* (ATA). Pursuant to section 24(2) of the ATA, Board may extend the time to file a notice of appeal if satisfied that special circumstances exist.

[5] A period of some 60 days passed between the decision made by a provincial safety officer on October 29, 2006, and the date the Notice of Appeal was filed on January 5, 2007.

[6] Sections 49 and 50 of the Act provide for a safety manager's review of a safety officer's decision, which must be requested in writing within 30 days of the date of the safety officer's decision. A written request for a safety manager's review within the specified time period would extend the period for appealing the safety officer's decision to within 30 days of the date of the safety manager's decision. However, the e-mail written on November 30, 2006 by the Acting Electrical Safety Manager, could not be regarded as a safety manager's decision under section 50 of the Act for the following reasons:

- a) the request was not made in writing as required by section 49 of the Act;
- b) the November 30, 2006 e-mail noted above does not meet the requirements set out in section 50 (3) of the Act, which states:

50 (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.

[7] In the absence of a safety manager's decision which meets the requirements of section 50 of the Act the Board must consider the 30 day period specified by section 24 of the *Administrative Tribunals Act* to be applicable in this case.

### **Decision**

[8] The Board finds that the specified period is intended to provide direction and that any extension of the specified time period must take into account the purpose of the Act, which is reflected by the board's jurisdiction.

[9] The Board obtains its jurisdiction from section 52 of the Act which states that when hearing appeals the board must consider the maintenance and enhancement of public safety.

[10] It was not stated or evident in the information provided by the Appellant that an unsafe condition existed as a result of the decision made by the Respondent.

[11] In the absence of evidence of an ongoing unsafe condition which the Board has jurisdiction to remedy, the Board would extend the 30 day time period for an appeal only in extenuating circumstances, such as when a person is prevented from filing an appeal within the specified period by circumstances beyond his or her control.

[12] The Board notes that the BC Safety Authority complied with section 80 of the Act, which specifies the procedure to be followed with respect to the service of documents and notices.

[13] On the basis of the reasons stated above the Board is satisfied that it did not have jurisdiction in this matter and the application to appeal the decision is denied.