

Indexed as: BCSSAB 1 (1) 2013

**IN THE MATTER OF THE *SAFETY STANDARDS ACT*
SBC 2003, CHAPTER 39**

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

BETWEEN: Candidate for Refrigeration Operators' Examination APPELLANT

AND: BRITISH COLUMBIA SAFETY AUTHORITY RESPONDENT

**REASONS FOR PRELIMINARY DECISION
Of a BC Safety Authority Examination**

[1] This is a preliminary decision in this Appeal.

[2] By way of background the appeal before the Board deals with the Appellant's Appeal of examination results from his Refrigeration Operators examination given by the BC Safety Authority. The Appellant scored 61% on the exam and consequently did not pass the examination. The Appellant contends that there is a problem with either the examination itself, the marking of the examination or the preparation course he took through the British Columbia Institute for Technology ("BCIT"). The Appellant advises that he scored 78% on the practice tests given by BCIT. Of particular concern to the Appellant is the possibility that the BCIT course, which is apparently approved and recommended by the Respondent, fails to sufficiently prepare students for the actual examination. The Respondent opposes the Appellant's appeal and submits that this is simply an unfortunate case where the Appellant was simply unable to pass the examination despite having studied for it.

[3] These reasons for decision do not deal with the ultimate decision in this Appeal, but rather the issue of whether the Appeal may properly proceed before the Board.

[4] Since filing the Appeal, the Appellant has advised the Board that he has retaken the examination in question and has passed. As a result of the Appellant's passing of the examination, counsel for the Respondent has submitted that the Appeal is now moot and ought not to proceed through the Board's appeal process. Accordingly, the question at hand is whether the appeal is rendered moot as a result of the Appellant's second exam results.

Issue

[5] Is the Appeal moot now that the Appellant has passed the Refrigerator Operators examination?

Position of the Parties

The Appellant

[6] The Appellant submits that although he has now passed a second examination that the issues raised on his appeal remain to be answered by the Board.

The Respondent

[7] The Respondent submits that the Appeal is moot as the Appellant has passed a second examination and has obtained his Refrigeration Operators certification from the BC Safety Authority.

Decision

[8] The Appeal at issue stems from the Appellant's exam results on a particular examination. Pursuant to the applicable legislation, the Appellant has the right to appeal those results to the Board. While one might expect that the Appellant's subsequent examination results would put an end to his Appeal in that the Appellant obtained the

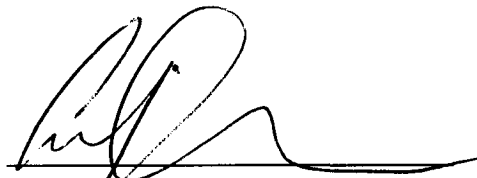
qualification he was seeking from the BC Safety Authority, that is not necessarily the case.

[9] While it is true that the Appellant has obtained the qualifications he was seeking from the BC Safety Authority, the other issues raised by the Appellant's Appeal have not been resolved, namely what, if any, correlation exists between the BCIT preparatory course and the final BC Safety Authority examination and whether there were issues with the initial final examination under appeal. The *Safety Standard Act* states that the Board must always consider the maintenance and enhancement of public safety.

[10] The legislation in question permits the Appellant to appeal not just his qualification, but his exam results to the Board. Those initial results continue to exist regardless of subsequent examination results and qualification. Accordingly, absent the consent of the Appellant to withdraw his appeal, the subject matter of his appeal remains properly before the Board.

Conclusion

[11] The within Appeal is not rendered moot. The Appeal shall proceed as previously ordered.



Emily C. Drown, Vice-Chair