

Before the Electrical Workers Registration Board

CE No. 22710

In the matter of:

A disciplinary hearing before the Electrical Workers Registration Board

Between:

The Ministry of Business Innovation and Employment

And

Shui Liu a registered and licensed electrical worker (E 248453, EW 108526, Electrician) (the Respondent)

**Decision of the Board in Respect of the Conduct of an Electrical Worker
Under section 147(G) and 147 (M) of the Electricity Act 1992**

Hearing Location:

Auckland

Hearing Type:

On the Papers

Hearing and Decision Date:

Friday 20th September 2024

Date:

Tuesday 24th September 2024

Board Members Present:

Mr R Keys, Registered Inspector (Presiding)

Mr M Orange, Barrister

Ms S Cameron, Registered Electrician

Mr T Wiseman, Registered Inspector

Mr J Hutton, Registered Inspector

Ms L Wright, Barrister

Appearances:

M Denyer for the Investigator

Procedure:

The matter was considered by the Electrical Workers Registration Board (the Board) under the provisions of Part 11 of the Electricity Act 1992 (the Act), the Electricity (Safety) Regulations 2010 (the Regulations) and the Board's Disciplinary Hearing Rules.

Board Decision:

The Respondent **has not** committed a disciplinary offence.

Introduction

- [1] The hearing resulted from a complaint about the conduct of the Respondent and a report under section 147G(1) of the Act from the Investigator that the complaint should be considered by the Board.
- [2] The Respondent was served with a Notice of Proceeding setting out the alleged disciplinary offence the Investigator reported should be considered by the Board. It was that, on 22 May 2023, Mr Shui Liu failed to provide a return, being an offence under section 143(f) of the Act, IN THAT, he failed to:
- (a) provide the Certificate of Compliance within 10 business days after requested by the homeowner, Mr Lin, on 8 May 2023 and/or
 - (b) retain a copy of the Certificate of Compliance for 7 years.
- [3] On 22 August 2024, Counsel for the Investigator wrote to the Board. He noted that subsequent investigations had ascertained that the Respondent had retained a certificate of compliance. He went on to state:
- 4. *While the investigator maintains that the COC was not provided within 10 business days as required, it is acknowledged that the complaint was made, the investigation commenced, and Mr Liu was notified of the complaint and investigation, before the offence actually occurred. By the time the 10 business days passed, and the offence was made out, Mr Liu was already involved in the complaint and investigation process.*
 - 5. *The investigator maintains that despite the complaint and investigation, Mr Liu should still have provided the COC within 10 business days.*
 - 6. *Nevertheless, it is acknowledged that the process may have been confusing for Mr Liu and may have led him to believe that it was effectively "too late" for him to provide the COC and comply with the law. It is arguable that the investigation should not have been commenced prior to the actual commission of the offence i.e. the expiry of 10 business days. Mr Liu's focus was instead directed towards responding to the complaint when in fact he could still have complied with the law by providing the COC.*
 - 7. *The investigator's position is that the remaining alleged offence is relatively minor, particularly in light of the fact that it appears the COC had been retained and has now been provided to the complainant. The complainant has advised the investigator that he only wanted to obtain the COC and has no views as to whether disciplinary action should proceed against Mr Liu.*

8. *In the circumstances, the investigator has decided that it is appropriate to not offer any evidence in this matter.*

Board's Conclusion and Reasoning

[4] Section 147G of the Act states:

147G Board must hold hearing if investigator reports that complaint should be considered by Board

- (1) *If the investigator reports that a complaint should be considered by the Board, the Board must hold a hearing to determine whether it should exercise its disciplinary powers under section 147M.*
- (2) *If the investigator reports that a complaint should not be considered by the Board, the Registrar must inform the complainant and the person complained against of that determination.*

[5] The Act also provides in section 147T:

147T Investigator to prosecute matter

- (1) *If the investigator reports that in the investigator's opinion a complaint should be considered by the Board, the matter must be prosecuted by the investigator at the hearing held by the Board under this Part (unless the Board orders otherwise).*

[6] Based on the Investigator offering no evidence, the Board finds that the Respondent has not committed a disciplinary offence.

Signed and dated this 7th day of October 2024



R Keys
Presiding Member