

Before the Electrical Workers Registration Board

CE No. 22844

In the matter of:

A disciplinary hearing before the
Electrical Workers Registration Board

Between:

The Ministry of Business Innovation and
Employment

And

Michael Chadwick a registered and licensed
electrical worker (E 259783, EW127680, I
063959,
Electrician) (the Respondent)

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

Hearing Location:

Wellington

Hearing Type:

In Person (Respondent attended remotely)

Hearing

17 October 2024

Decision Date:

17 October 2024

Board Members Present:

Mr R Keys, Registered Inspector (Presiding)

Ms S Cameron, Registered Electrician

Mr J Hutton, Registered Inspector

Ms L Wright, Barrister

Mr T Tran, Barrister

Appearances: Mr Ross Gouverneur for the Investigator, Mr M Chadwick (self-represented)

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 disciplinary offences under sections 143(g) and 143(f) of the Act.

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Summary of the Board’s Decision

- [1] The Respondent faced charges that alleged he had:
- (a) Permitted unauthorised persons to carry out prescribed electrical work (PEW) under section 143(g) of the Act; and
 - (b) Provided false and misleading returns by certifying PEW he had not personally inspected or tested under section 143(f) of the Act.
- [2] The charges are dismissed as [Omitted] and [Omitted] were trainees under section 77 of the Act. As trainees, they were authorised to carry out the PEW. Therefore, the charges relating to permitting unauthorised persons to do PEW must fail. Consequently, the charges relating to false and misleading returns in certifying work by authorised persons must also fail.

Introduction

- [3] 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.
- [4] The Investigator alleged the Respondent had committed disciplinary offences by allowing Limited Certificate holders to carry out PEW without proper supervision and by certifying their work without inspection and testing.
- [5] There are four disciplinary offences under the Act, which are set out in the Notice of Proceeding dated 6 June 2024.
- [6] The first and third disciplinary offences are representative charges relating to inadequate supervision by failing to inspect, visit, test and verify PEW. These offences alleged as follows:
- (a) Between 23 March 2023 and 22 September 2023, in Nelson, the Respondent has employed, directed or permitted unauthorised persons to carry out PEW being an offence under section 143(g) of the Act, IN THAT, he permitted [Omitted], an unauthorised person to carry out PEW in breach of section 74 of the Act at 63 properties.
 - (b) Between 17 April 2023 and 6 September 2023, in Nelson, the Respondent has employed, directed, or permitted unauthorised persons to carry out PEW being an offence under section 143(g) of the Act, IN THAT, he permitted [Omitted], an unauthorised person, to carry out PEW in breach of section 74 of the Act at 108 properties.
- [7] The second and fourth disciplinary offences are representative charges relating to providing false and misleading returns. These offences alleged as follows:
- (a) Between 23 March 2023 and 22 September 2023, in Nelson, the Respondent has provided false or misleading returns being an offence under section 143(f) of the Act, IN THAT, he provided Certificates of Compliance for PEW carried out by [Omitted] without inspecting or testing the PEW at the 63 properties.
 - (b) Between 17 April 2023 and 6 September 2023, in Nelson, the Respondent has provided false or misleading returns being an offence under section 143(f) of the Act, IN THAT, he provided Certificates of Compliance for PEW carried out by [Omitted] without inspecting or testing the PEW at 108 properties.
- [8] Prior to the hearing, the Respondent and the Board were provided with all of the documents the Investigator had in his power or possession.

Procedure

- [9] The matter proceeded on the basis of an Agreed Statement of Facts (ASOF) signed by the Respondent and the Investigator dated 2 August 2024.
- [10] At the hearing on 17 October 2024, the Board requested that the Investigator provide additional legal submissions on the definition of “unauthorised” person in terms of the disciplinary offences laid pursuant to section 143(g) of the Act. The hearing was adjourned for this purpose.
- [11] Following the hearing, the Counsel for the Investigator, Mr Matt Burden, provided his submissions dated 31 October 2024.

The Agreed Statement of Facts

- [12] The ASOF set out the relevant facts of this case.
- [13] At all relevant times the Respondent was employed by Cristal Air International Limited (the Company) which trades as HRV. The company sells and installs home ventilation and ducted heat pump units.
- [14] Between 1 January 2023 and 31 December 2023, the Respondent was responsible for the supervision of two unregistered Limited Certificate holders employed by the company namely [Omitted] based in Dunedin and [Omitted] based in Christchurch. Both were employed as installers and assigned work in their respective areas.
- [15] The Respondent signed electrical safety certificates (ESC) and certificates of compliance (COC) for PEW completed by both Limited Certificate holders without inspecting and testing the PEW.
- [16] Between 23 March 2023 and 22 September 2023 [Omitted] completed around 63 installations of home ventilation and ducted heat pump units in the Otago/Southland area.
- [17] During each installation [Omitted] completed all the related PEW alone, completed the mandatory testing and took photos of the test results. He then drafted an ESC/COC and emailed it along with the photos to the Respondent in Nelson as he was instructed to do.
- [18] The ESC/COC certified that the PEW carried out had been done lawfully and safely, and that the installation is connected to a power supply and is safe to use.
- [19] Further, between 17 April 2023 and 6 September 2023 [Omitted] completed around 108 installations of home ventilation and ducted heat pump units in the Canterbury area.
- [20] During each installation [Omitted] completed all the related PEW alone, completed the mandatory testing and took photos of the test results. He then drafted an

ESC/COC and emailed it along with the photos to the Respondent in Nelson as he was instructed to do.

- [21] The ESC/COC certified that the PEW carried out had been done lawfully and safely, and that the installation is connected to a power supply and is safe to use.
- [22] On each occasion when the Respondent received the ESC/COC and information provided by [Omitted] and [Omitted], the Respondent signed the ESC/COC and arranged for them to be sent to the property owners. On each occasion the Respondent neither visited the property nor tested the PEW.
- [23] During an annual company audit in September 2023 an electrical inspector employed by the Company became aware of the Respondent's process of remote supervision and instructed the Respondent to immediately cease this practice and informed him he must attend and visually verify [Omitted] and [Omitted]'s installations and test the PEW before it is livened.
- [24] The Company then arranged for the relevant installations to be inspected, and no significant issues were found.
- [25] Turning to the relevant statutory provisions.

Relevant Statutory Provisions

- [26] Section 74 of the Act sets out restrictions on who can carry out or assist with PEW. Under section 74(1), a person must not do any PEW, or assist in doing any PEW, unless authorised to do so under the Act.
- [27] Under section 74(3), a person does not breach this section if the work is done in accordance with any of sections 75 to 80.
- [28] Section 76 of the Act provides a general exemption for work done under supervision, provided certain conditions are met. These include that the work must be carried out under the supervision of a registered person who holds a current practising licence authorising them to supervise electrical work, and the work must be tested and certified in accordance with regulations.
- [29] Section 77 of the Act provides a specific exemption for trainees who hold Limited Certificates issued by the Board under section 78. This section allows trainees to carry out PEW that is within the scope of work that the trainee's supervisor is authorised to do. This is further defined in Regulation 93 of the Electricity (Safety) Regulations 2010:

"For the purposes of section 77(1)(a) of the Act, the prescribed electrical work that a trainee may do, or assist in doing, is any work that is within the particular class of work for which the trainee is seeking registration, and that is within the scope of work that the trainee's supervisor is authorised to do."

[30] The Board observes that the supervision requirements for trainees differ from those set out in section 76, recognising the different context in which trainees operate.

The Board's Decision

[31] While the Respondent initially accepted that he had committed the four disciplinary offences, the Board must reach its own view and be satisfied whether the offences are proven, having regard to the ASOF and the submissions before it.

[32] Having considered these statutory provisions, the Board now turns to the Investigator's submissions and its analysis of the charges.

[33] In his written submissions, the Investigator submitted that while [Omitted] and [Omitted] held Limited Certificates, they were "unauthorised" persons because:

(a) The supervision requirements under section 76 of the Act were not met as the Respondent failed to:

- i. Inspect the PEW;
- ii. Visit the sites;
- iii. Verify completion of the PEW; and
- iv. Undertake testing of the PEW before certification.

(b) Since these supervision requirements were not met, neither the section 76 general supervision exemption nor the section 77 trainee exemption applied, making them unauthorised persons.

[34] The Board does not accept the Investigator's submissions. Notwithstanding the circumstances of this case, the Investigator appears to have narrowly focused on the application of section 76 in support of their position. As noted above, section 77 of the Act provides a specific exemption allowing trainees to carry out PEW. This definition applies to [Omitted] and [Omitted].

[35] This authorisation exists independently of the quality or adequacy of supervision received.

[36] The Board notes that the holding of a Limited Certificate inherently indicates trainee status, as such certificates can be issued to those who have already qualified overseas but are working towards obtaining their full electrical worker registration and licence in New Zealand. This is consistent with the purpose of section 77, which creates a pathway for people to gain the necessary experience while working under supervision. The Board notes that the supervision requirements under section 77 are not as strict as section 76. Both [Omitted] and [Omitted] held Limited Certificates (being previously qualified in another jurisdiction) while working towards obtaining their licence in New Zealand.

- [37] As [Omitted] and [Omitted] held valid Limited Certificates and were therefore authorised under section 77 to carry out PEW. The Board does not consider they fall under section 76. Therefore, the first and third charges alleging breaches of section 143(g) must fail.
- [38] It follows that since they were authorised to carry out the PEW, the ESCs/COCs issued by the Respondent cannot be considered false or misleading returns merely by virtue of certifying work carried out by these authorised persons. Therefore, the second and fourth charges must also fail.
- [39] Accordingly, all charges against the Respondent are dismissed.

Right of Appeal

- [40] The right to appeal Board decisions is provided for in sections 147ZA and 147ZB of the Act.¹

Signed and dated this 13th day of December 2024.



Mr R Keys
Presiding Member

¹ Sections 147ZA and 147ZB of the Electricity Act 1992.

Section 147M of the Act

- (1) *If the Board, after conducting a hearing, is satisfied that a person to whom this Part applies is guilty of a disciplinary offence, the Board may—*
 - (a) *do 1 or more of the following things:*
 - (i) *order that the person's registration or practising licence (or both) be cancelled:*
 - (ii) *order that the person's provisional licence be cancelled:*
 - (iii) *order that the person may not apply to be reregistered or re-licensed before the expiry of a specified period:*
 - (b) *order that the person's registration or practising licence (or both), or the person's provisional licence, be suspended—*
 - (i) *for any period that the Board thinks fit; or*
 - (ii) *until that person does 1 or more of the things specified in subsection (2):*
 - (c) *order that the person's registration or practising licence (or both), or the person's provisional licence, be restricted for any period that the Board thinks fit, in either or both of the following ways:*
 - (i) *by limiting the person to the work that the Board may specify;*
 - (ii) *by limiting the person to doing, or assisting in doing, work in certain circumstances (for example, by limiting the person to work only on approved premises or only in the employ of an approved employer):*
 - (d) *order that the person be disqualified from doing or assisting in doing prescribed electrical work that the person would otherwise be authorised to do in that person's capacity as a person to whom this Part applies—*
 - (i) *permanently, or for any period that the Board thinks fit; or*
 - (ii) *until that person does 1 or more of the things specified in subsection (2):*
 - (e) *order the person to do 1 or more of the things specified in subsection (2) within the period specified in the order:*
 - (f) *order the person to pay a fine not exceeding \$10,000:*
 - (g) *order that the person be censured:*
 - (h) *make no order under this subsection.*
- (2) *The things that the person can be required to do for the purposes of subsection (1)(b), (d), and (e) are to—*
 - (a) *pass any specified examination:*
 - (b) *complete any competence programme or specified period of training:*
 - (c) *attend any specified course of instruction.*
- (3) *The Board may take only 1 type of action in subsection (1) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b), (c), (e) or (g).*
- (4) *No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an—*
 - (a) *offence for which the person has been convicted by a court; or*
 - (b) *infringement offence for which the person has been issued with an infringement notice and has paid an infringement fee.*
- (5) *The Board must not exercise any authority conferred by this section in respect of any offence committed by any person before the date of that person's registration or, as the case may be, the date on which that person's provisional licence was issued if at that date the Board was aware of that person's conviction for that offence.*
- (6) *If a person is registered under Part 10 in respect of more than 1 class of registration, the Board may exercise its powers under subsection (1)(a) to (e) in respect of each of those classes or 1 or more of those classes as the Board thinks fit.]*

Section 147ZA Appeals

- (1) *A person who is dissatisfied with the whole or any part of any of the following decisions, directions, or orders may appeal to the District Court against the decision, direction, or order:*

- (e) any decision, direction, or order under any of sections 108, 109, 120, 133, 137, and 153 or Part 11 (except section 147C).

Section 147ZB Time for lodging appeal

An appeal under section 147ZA must be brought within—

- (a) 20 working days after notice of the decision, direction, or order was given to, or served on, the appellant; or
- (b) any further time that the District Court may allow on application made before or after the expiration of that period.