Plumbers,
Gasfitters and
Drainlayers Board

CANNELL v TAUTARI

Plumbers, Gasfitters & Drainlayers Board Disciplinary Decision (2024/11)

Summary

Tylo Tautari, Tradesman Plumber, was charged with carrying out sanitary plumbing and gasfitting in a manner contrary to an enactment. The charges related to the installation of a gas water heater at a residential property in Pataua South.

Mr Tautari pleaded guilty to the charges.

The Board considered Mr Tautari's offending was highly serious given it involved two kinds of unauthorised work and the defects with the gasfitting were assessed as posing a high risk of harm to people or property. The Board found there were no aggravating factors in the case and Mr Tautari was entitled to credit for his guilty plea, cooperation, and lack of any previous disciplinary offending.

The Board ordered Mr Tautari to pay a fine of $4,000 and pay $3,800 towards costs and censured him.

IN THE MATTER OF a disciplinary hearing pursuant to section 101 of the Plumbers, Gasfitters, and Drainlayers Act 2006

BETWEEN **MELISSA CANNELL**

Investigator

AND **TYLO TAUTARI**
Tradesman Plumber, of Pataua South

Registered Person

DECISION OF THE BOARD
30 JULY 2024

Hearing:	Held via audio visal link on 12 June 2024
Members sitting:	Diana Kuhtz-Covich (Chair), Barry Willcox, Ming-chun Wu, Tofa Suafole Gush, Selwyn Hikuroa
Counsel:	Jessica Ah Koy for the investigator Mr Tautari was self-represented
Legal advisor:	Richard May

Disciplinary hearing

1. On 12 June 2024, the Plumbers, Gasfitters and Drainlayers Board (**Board**) held a disciplinary hearing via audio visual link to consider a complaint by Kristy Hunt against Tylo Tautari, Tradesman Plumber. The complaint related to sanitary plumbing and gasfitting work at a residential property in Pataua South.

Guilty plea

2. On 15 April 2024, Mr Tautari pleaded guilty to charges of carrying out sanitary plumbing and gasfitting in a manner contrary to an enactment and signed an agreed summary of facts, the material parts of which were as follows:

    a. Mr Tautari is a Tradesman Plumber. He does not hold a current practising licence.

    b. In December 2022, Mr Tautari disconnected the water pipes to a hot water cylinder at Ms Hunt's property and installed a gas continuous flow water heater. He connected the water heater to the water supply in the kitchen, bathroom and laundry. Mr Tautari also connected the water heater to the existing gas supply and connected an existing gas hob.

    c. At the time he carried out the sanitary plumbing work at the property, Mr Tautari did not hold a current practising licence. Mr Tautari also held no authorisation to do gasfitting at the time. Mr Tautari had previously held a limited certificate as a trainee gasfitter, but this had expired in March 2016.

    d. When Ms Hunt was unable to obtain an invoice and a gas certificate for the installation from Mr Tautari, she engaged another certifying plumber and certifying gasfitter to review the installation. They advised Ms Hunt that the installation was defective and did not comply with the mandatory gas installation standard AS/NZS 5601.1:2013 (**Standard**) or the Gas (Safety and Measurement) Regulations 2010 (**Regulations**). Ms Hunt then made a complaint to the Board.

    e. Following receipt of Ms Hunt's complaint, the Board's technical advisor identified the following defects with the installation:

        i. The installation was connected to 9kg gas cylinders which were did not provide an adequate supply of gas to the installation, contrary to Table J2 of the Standard. The regulator and water heater would need to be relocated to accommodate the correct sized cylinders.

        ii. The cylinders were on soil rather than a firm, non-combustible base, contrary to clause J4.1(a) of the Standard.

iii. The cylinders were installed too close to damaged fibre cement board which would allow leaked gas to enter under the house, contrary to Figure J4 of the Standard.

iv. The gas pipework did not have any UV protection, contrary to Table J4.1 of the Standard.

v. Testing was not carried out on the gas installation, contrary to regulation 45 of the Regulations.

f. The Board's technical advisor assessed the installation as posing a high risk of harm to person, property, or the environment.

g. Mr Tautari acknowledged that he had done sanitary plumbing and gasfitting work at the property and accepted the issues identified with the work.

h. Mr Tautari advised that he arranged for the installation to be checked and certified by a certifying gasfitter who identified issues with the installation. However, Mr Tautari stated he was trespassed from the property and was not able to return to fix the issues and test the installation in order for it to be certified.

3. The Board was satisfied that the facts in the agreed summary of facts meant that Mr Tautari had committed disciplinary offences under sections 89(a)(ii) of the Act.

Penalty and costs submissions

4. On behalf of the investigator, Ms Ah Koy submitted that the principles and purposes of disciplinary proceedings were well established. They were to protect the public and to maintain proper industry standards. She submitted that the principles that were relevant to the assessment of penalty in disciplinary proceedings were the need to ensure rehabilitation, the importance of treating practitioners consistently where possible, and the need to impose the least severe penalty appropriate to ensure the principles and purposes of the disciplinary proceeding were met.

5. Ms Ah Koy submitted that Mr Tautari's offending was at the upper end of moderately serious/lower end of highly serious. She submitted that his gasfitting work posed a high risk of harm to others because of the defects. She submitted that Mr Tautari had only been a trainee gasfitter and that had been some years before he carried out the work at Ms Hunt's property. Ms Ah Koy also submitted that the defective work had had a considerable impact on Ms Hunt as she had been unable to afford to remediate the defects.

6. Ms Ah Koy referred the Board to its previous decisions in the cases of *Thomas v Jaspers* (2018/28), *Radovich v Oborn* (2021/25), and *Phillips v Geange* (2020/32). In the *Jaspers* case, Mr Jaspers pleaded guilty to charges of unauthorised gasfitting and non-compliant gasfitting in relation to the installation of a water heater, gas hob, LPG

station, and associated pipework. The defects with the work had not involved safety issues and the Board censured him and fined him $3,500. In the *Oborn* case, Mr Oborn was found guilty of unauthorised gasfitting and negligent or incompetent gasfitting in relation to the installation of a gas hob and associated pipework. In that case, the hob had been left in an unsafe state and presented an immediate risk of causing serious injury or damage. The Board adopted a starting point of $5,500 for the fine in that case. Finally, in the *Geange* case, Mr Geange had pleaded guilty to unauthorised gasfitting work in a caravan where the work was defective and there was a risk of carbon monoxide entering the caravan living space. The Board adopted a starting point for the fine in that case of $6,500.

7. Ms Ah Koy submitted that Mr Tautari's case was more serious than the *Jaspers* case because it involved two kinds of restricted work and the gasfitting work posed a higher risk than in Mr Jaspers' case. She submitted that the offending in Mr Geange's case was more serious than the present case given the safety risk in that case had been immediate and significant given the work was in a caravan. Ms Ah Koy submitted that Mr Tautari's offending was of a similar level of seriousness as Mr Oborn's. While the risk in Mr Oborn's case was more immediate than in Mr Tautari's, Mr Tautari had carried out unauthorised sanitary plumbing as well as gasfitting.

8. Ms Ah Koy submitted that the investigator was not aware of any aggravating factors in Mr Tautari's case. She acknowledged that Mr Tautari had no previous disciplinary history and had cooperated during the investigation and by pleading guilty to the charges.

9. Ms Ah Koy submitted that under section 107 of the Act, the Board could require Mr Tautari to pay a contribution towards the costs and expenses of the investigation, prosecution, and hearing. She submitted that the usual starting point for an order of costs was half of the costs and she acknowledged that Mr Tautari may be entitled to a reduction from this point to recognise his guilty plea and cooperation.

10. No submissions on penalty were received from Mr Tautari and he did not attend the penalty hearing.

Decision on penalty

11. When it comes to imposing penalties in disciplinary cases, the Board's primary considerations are the need to protect the health and safety of the public and maintain industry standards. Any disciplinary penalty should aim to ensure the competency of a practitioner by holding them to account for their offending, assist with their rehabilitation, and deter them and other practitioners from disciplinary offending.

12. Having considered the investigator's submissions and the facts of the case, the Board considered that Mr Tautari's offending in this case was highly serious. He had no licence to carry out sanitary plumbing and was not qualified or authorised to carry

out gasfitting. As a result, his gasfitting work was defective in a number of ways and had been assessed by the technical advisor as posing a high risk to people and property. The Board considered that this was a clear illustration of the risks of unauthorised people carrying out gasfitting when they do not know what they are doing. The Board also considered that as a registered Tradesman Plumber and having previously held an authorisation to do gasfitting, Mr Tautari would have known that he needed to be licensed and authorised to carry out this work.

13. The Board found there were no aggravating factors in the case and Mr Tautari's guilty plea and cooperation, and lack of previous disciplinary offending were mitigating factors in his favour.

14. The Board considered that a fine was an appropriate penalty and determined that the starting point should be $5,750. This was reduced to $4,000 to recognise the mitigating factors. The Board also consider that a censure was in order.

Costs

15. Section 107 of the Act provides that, in addition to any penalty imposed, the Board may order a registered person to pay a reasonable sum towards the costs and expenses incidental to the investigation of the complaint, prosecution, and hearing. The Board was provided with a schedule of estimated costs for the investigation, prosecution and hearing amounting to $9,551.60.

16. The Board accepted that Mr Tautari's guilty plea and cooperation had helped to keep the costs down and determined that he should pay $3,800 towards costs which was around 40% of the total costs.

Publication

17. In accordance with section 74(1)(c)(viii) of the Act, the Board ordered that details of the action taken against Mr Tautari should be recorded on the register of plumbers, gasfitters, and drainlayers. Any other publication of the Board's orders would be at the discretion of the Registrar of Plumbers, Gasfitters and Drainlayers.

Board orders

18. Being satisfied that Mr Tautari was guilty of disciplinary offences under section 89(a)(ii) of the Act, the Board made the following orders:

    a. Pursuant to section 106(1)(f) of the Act, Mr Tautari pay a fine of $4,000.

    b. Pursuant to section 106(1)(g) of the Act, Mr Tautari is censured.

    c. Pursuant to section 107 of the Act, Mr Tautari pay $3,800 towards the costs of the investigation, prosecution, and hearing.

d. Pursuant to section 74(1)(c)(viii) of the Act, details of the Board's orders in respect of Mr Tautari be published on the register.

Appeal

19. If Mr Tautari is dissatisfied with the whole or any part of this decision or these orders, he may appeal to the District Court under section 162(1)(f) of the Act. Any appeal must be brought within 20 working days from the date on which this formal written decision is received, or within any other timeframe the District Court may allow.

Dated 30 July 2024

Signed



Diana Kuhtz-Covich
Chair
Plumbers, Gasfitters and Drainlayers Board