Plumbers, Gasfitters and Drainlayers Board

PIDGEON v STILL

Plumbers, Gasfitters & Drainlayers Board Disciplinary Decision (2024/14)

Summary

Chad Still, Certifying Plumber, Certifying Gasfitter, was found guilty of causing negligent or incompetent gasfitting, employing, directing or permitting an unauthorised person to do gasfitting, and failing to issue a gas safety certificate. The charges related to the installation of a gas fryer at a commercial property in Hamilton/Kirikiriroa in June 2022.

The Board determined that Mr Still's conduct in this case was moderately serious. He had allowed an unauthorised person to carry out gasfitting, left a non-compliant gas installation in a state where it could be used, and failed to ensure that the installation was made compliant and properly certified. The Board recognised that Mr Still had no history of previous disciplinary offending and, while not lessening his culpability in this case, had experienced a significant family tragedy the preceding year.

Mr Still was fined $5,225 and ordered to pay $19,900 towards costs.

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

BETWEEN **MICHAEL PIDGEON**

Investigator

AND **CHAD JOSEPH LEE STILL**
Certifying Plumber, Certifying Gasfitter, of Hamilton/Kirikiriroa

Registered Person

DECISION OF THE BOARD ON PENALTY
1 AUGUST 2024

Hearing:	Held on the papers on 8 July 2024
Members sitting:	Diana Kuhtz-Covich (Chair), James Smith, Beth Healy, Ming-chun Wu, Sue Simons
Counsel:	Elena Mok for the investigator Philip Ross for Mr Still
Legal advisor:	Richard May

Disciplinary hearing

1. On 29 November 2023, the Plumbers, Gasfitters and Drainlayers Board (**Board**) held a disciplinary hearing to consider a complaint by Hardik Gupta against Chad Still, Certifying Plumber, Certifying Gasfitter.

2. In a decision issued on 14 May 2024, the Board found Mr Still guilty of causing gasfitting to be carried out in a negligent or incompetent manner, employing, directing or permitting an unauthorised person to carry out gasfitting, and failing to issue a return required in relation to gasfitting.

3. On 8 July 2024, the Board held a penalty hearing on the papers to determine what penalty, if any, to impose on Mr Still.

Summary of investigator's penalty submissions

4. Ms Mok submitted that the principles and purposes of disciplinary proceedings were well established. They were to protect the public and 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 that the principles and purposes of the disciplinary proceeding were met.

5. Ms Mok submitted that Mr Still's offending was moderately serious. It involved defective gasfitting work which posed a moderate safety risk carried out on commercial premises by an unauthorised person. The installation was also left connected to the gas supply in circumstances where Mr Still knew it was not compliant because it was a missing safety chain and had not been certified. Ms Mok submitted that it was also relevant that in its liability decision, the Board had found that Mr Still's failure to obtain a practising licence was not a minor matter and his actions in reconnecting the installation to the gas supply and failing to ensure it was certified was conduct that fell well below that standard expected of him.

6. Ms Mok submitted that it was accepted that Mr Still's failure to ensure both he and his employee were appropriately authorised appears to have been an oversight rather than a deliberate act. However, she submitted that Mr Still should have taken greater care as the director of his company to ensure that only authorised people carried out gasfitting and they were appropriately supervised while doing so.

7. Noting the importance of treating practitioners consistently where possible, Ms Mok referred the Board to its previous decisions in the cases of *Thomas v Kumar* (2021/6), *Radovich v Beech* (2022/9), and *Thomas v Jaspers* (2018/28).

8. In *Kumar*, Mr Kumar pleaded guilty to negligent or incompetent gasfitting, employing, directing, or permitting an unauthorised person to do gasfitting, and issuing a false or misleading return in relation to the installation of a gas water heater, auto changeover regulator, and pipework. The Board considered Mr Kumar's offending was very serious as he had failed to check the person was authorised and had not personally visited the property to inspect the work which was defective. The Board adopted a starting point for the fine in his case of $6,500. Ms Mok submitted that Mr Still's offending was less serious than this case as there had been several defects with the work in the *Kumar* case and Mr Kumar had taken no steps to inspect the work or check the status of the person who carried out the work before certifying it.

9. In *Beech*, Mr Beech pleaded guilty to charges of negligent or incompetent gasfitting, failing to issue a return, and gasfitting contrary to an enactment for failing to lodge details of the work on the Electricity and Gas High-Risk Database. The work related to the conversion of a natural gas cooker to LPG where the wrong injectors were used in the oven causing soot build-up which eventually ignited. The Board considered Mr Beech's offending to be moderately serious and adopted a starting point of $5,000 for the fine. Ms Mok submitted that Mr Still's offending was slightly more serious than Mr Beech's as the gasfitting had been carried out by an unauthorised person under Mr Still's employment and direction.

10. Finally, in *Jaspers*, Mr Jaspers pleaded guilty to carrying out gasfitting when unauthorised and non-compliant gasfitting in relation to the installation of a gas water heater, gas hob, and associated pipework. Mr Jaspers ordinarily worked as a plumber and had limited gasfitting experience. There were a number of defects with the work. The Board considered Mr Jasper's offending was moderately serious and imposed a fine of $3,500 in his case. Ms Mok submitted that Mr Still's offending was slightly more serious than Mr Jasper's because it involved unauthorised and defective gasfitting and failings in Mr Still's certification practices.

11. Having regard to the cases, Ms Mok submitted that a penalty of a fine with a starting point in the vicinity of $5,500 - $6,000 was appropriate.

12. Ms Mok submitted that the investigator was not aware of any aggravating factors personal to Mr Still and acknowledged that he had no previous disciplinary history which was a mitigating factor in his favour. Ms Mok also acknowledged that Mr Still had experienced a personal tragedy the previous year and accepted that he was experiencing personal difficulties as a result of that.

13. Ms Mok submitted that the Board could require Mr Still 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 the costs, but it was ultimately for the Board to determine in its discretion. Ms Mok submitted that there was no basis in this case for the Board to depart from the starting point.

Summary of Mr Still's penalty submissions

14. Mr Ross submitted that it was not disputed that the gasfitting work had been done competently and that all that prevented it from being completed was the addition of a safety chain. Mr Ross accepted that Mr Still did not issue a certificate for the installation. However, he submitted Mr Still was in a difficult position as he had been trespassed and could not return to inspect the installation and fit the safety chain. He submitted that Mr Still risked committing an offence if he issued a certificate in the circumstances. Mr Ross submitted that it was also Mr Still's practice, as on this occasion, to issue an invoice referring to a certificate before the work was completed.

15. Referring to the *Beech* case, Mr Ross submitted that the present case was not as serious. Mr Ross submitted that there were a number of errors in that case including the wrong sized injectors and a failure to convert the oven burner and pilot light. Mr Ross also submitted that Mr Beech's failure to issue a certificate was due to computer problems. In Mr Still's case, he was not able to return to the premises to carry out an inspection so it would have been unconscionable for him to issue a certificate in those circumstances.

16. Given that Mr Still's case was significantly less serious than Mr Beech's, Mr Ross submitted that an appropriate starting point for a fine was $2,500. Mr Ross submitted that Mr Still should receive a 10% discount for his lack of previous disciplinary history and a further 15% for the significant family matters he was dealing with. Mr Ross submitted that this resulted in a final fine of $1,875.

17. Mr Ross accepted that it was usual practice to require a practitioner to pay a portion of the Board's costs, but submitted that the case had been a heavy-handed approach to what was relatively low-level offending. In the circumstances, he submitted a contribution of 25% was appropriate.

Investigator's response to Mr Still's penalty submissions

18. Responding to Mr Still's submissions, Ms Mok submitted that the investigator rejected the submission that a starting point for a fine should be $2,500. She submitted that no supporting cases had been put forward by Mr Still to support this position. Ms Mok also submitted that Mr Still had been found guilty of three disciplinary charges in the case.

19. Ms Mok submitted that the investigator also rejected Mr Sill's submissions that the work had been performed competently, noting that the Board had found him guilty of causing negligent or incompetent gasfitting work to be carried out. Similarly, Ms Mok submitted that Mr Still's submission that he was unable to issue a gas certificate was inconsistent with the Board's finding in its liability decision that there were steps open to Mr Still in the circumstances which he could and ought to have taken rather than leaving a non-compliant gas installation connected to the gas supply.

20. Finally, Ms Mok submitted that the investigator rejected the submission that the case had been heavy handed and involved only low-level offending. She submitted that Mr Still had been found guilty of three separate disciplinary offences following a fully defended hearing where the Board's factual findings in its liability decision were not consistent with characterising the offending as minor, trivial, or low-level. In the circumstances, she submitted there was no basis for the Board to reduce the level of contribution towards costs from the usual 50 per cent.

Consideration of penalty

21. 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.

22. The Board considered Mr Still's offending was moderately serious. He had left a gas installation in a state where it could be used when it was non-compliant. He had also allowed an unauthorised person to carry out gasfitting and was unauthorised himself. Finally, he had failed to issue a gas certificate for the installation or make arrangements with another certifying gasfitter to do so.

23. The Board accepted that Mr Still had no previous disciplinary offending and this was to his credit. The Board also accepted that Mr Still had suffered a personal tragedy which would have had a profound impact on him and his family. However, while sympathetic, the Board did not consider that this lessened Mr Still's culpability in this case.

24. The Board determined that a fine was the appropriate penalty in the circumstances and adopted a starting point of $5,500. Applying a discount for Mr Still's lack of previous offending and personal circumstances, the Board reduced the fine to $5,225.

Costs

25. 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 $39,874.70.

26. The Board determined that Mr Still should pay half of the costs at $19,900.

Publication

27. The Board determined that details of Mr Still's disciplinary offending should be entered on the public register in the usual way. Any other publication of the Board's orders should be at the discretion of the Registrar of Plumbers, Gasfitters, and Drainlayers.

Board orders

28. Being satisfied that Mr Still was guilty of disciplinary offences under sections 89(a)(i), 89(g), and 89(f) of the Act, the Board made the following orders:

    i. Pursuant to section 106(1)(f) of the Act, Mr Still pay a fine of $5,225.

    ii. Pursuant to section 107 of the Act, Mr Still pay $19,900 towards the costs of the investigation, prosecution, and hearing.

29. In accordance with section 74(1)(c)(viii) of the Act, the Registrar must publish the details of the action taken against Mr Still on the register of plumbers, gasfitters, and drainlayers.

Appeal

30. If Mr Still is dissatisfied with the whole or any part of this decision, 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 1 August 2024

Signed



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Diana Kuhtz-Covich
Chair
Plumbers, Gasfitters and Drainlayers Board