Plumbers, Gasfitters and Drainlayers Board

JURY v REDWARD

Plumbers, Gasfitters & Drainlayers Board Disciplinary Decision (2024/23)

Summary

Joshua Redward, Certifying Gasfitter, was charged with carrying out gasfitting in a negligent or incompetent manner in relation to gasfitting carried out in a motorhome.

Mr Redward pleaded guilty to the charge.

The Board considered Mr Redward's offending was moderately serious but at the higher end of that scale given the defective work was carried out in a motorhome. The Board found there were no aggravating factors in the case and Mr Redward was entitled to credit for his guilty plea, cooperation, and lack of any previous disciplinary offending.

The Board ordered Mr Redward to pay a fine of $3,750 and $5,900 towards costs.

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

BETWEEN **MEGAN JURY**

Investigator

AND **JOSHUA LEWIS REDWARD**
Certifying Gasfitter, of Tauranga

Registered Person

DECISION OF THE BOARD
16 January 2025

Hearing:	Held on the papers on 17 October 2024
Members sitting:	Diana Kuhtz-Covich (Chair), Martin de Gouw, James Smith, Selwyn Hikuroa, Sue Simons
Counsel:	Keir Robinson for the investigator David Pawson for Mr Redward
Legal advisor:	Juliet Philpott

Disciplinary hearing

1. On 17 October 2024, the Plumbers, Gasfitters and Drainlayers Board (**Board**) held a disciplinary hearing on the papers to consider a complaint by Neal McCarthy against Joshua Redward, Certifying Gasfitter. The complaint related to gasfitting work carried out on Mr McCarthy's motorhome.

Guilty plea

2. On 12 August 2024, Mr Redward pleaded guilty to a single charge of carrying out gasfitting in a negligent or incompetent manner and signed an agreed summary of facts, the material parts of which were as follows:

    a. Mr Redward is a registered and licensed certifying gasfitter.

    b. On 12 August 2021, Mr Redward carried out gasfitting work on a motorhome owned by Mr McCarthy. The work involved running a new soft copper gas pipe from the LPG cylinder locker to an existing oven, water heater, and fridge. Mr Redward then issued a combined gasfitting certificate of compliance and gas safety certificate (**certificate**) certifying that the work was safe and compliant.

    c. In February 2022, Mr McCarthy noticed a 3-4mm gap in the rubber grommet seal between the gas heater enclosure and the interior of the motorhome. He contacted Mr Redward who advised him to run silicon around the gap. Mr McCarthy asked Mr Redward to return and carry out remedial work, but Mr Redward did not do so. Mr McCarthy subsequently made a complaint to the Board.

    d. Samuel Wood, a certifying gasfitter and technical advisor to the Board, identified the following issues with the gasfitting work:

        i. the gas pipe was installed in an exposed state inside the storage locker which was contrary to clauses 2.7.6(a) and 5.2.1(e) of AS/NZS 5601.2:2013 (**Standard**)

        ii. there was inadequate sealing between the two compartments where the pipe penetrated and the rubber grommet used as a seal had a 3-4mm gap, which was contrary to clause 2.7.5 of the Standard

        iii. a section of pipe running through a penetration between the interior walls of a cabinet had nothing to protect it from vibration, which was contrary to clause 5.2.1 of the Standard

        iv. the issues identified with the work meant the certificate was incorrect.

    e. Mr Wood assessed the risk with the work as high as unprotected and unsupported pipework could become damaged which could result in a gas leak.

Because of the insufficient sealing of the penetration between the compartments, leaking gas would be able to pass into the living area of the motorhome.

f. Mr Redward accepted he had carried out the work and that the pipework in the locker was exposed. However, he said there was nowhere else for it to go and he understood that further work would be carried out to protect the pipework. Mr Redward did not accept the other issues identified with the work.

3. The Board was satisfied that the facts in the agreed summary of facts meant that Mr Redward had committed a disciplinary offence under section 89(a)(i) of the Act.

Penalty and costs submissions

4. On behalf of the investigator, Mr Robinson submitted that the principles and purposes of disciplinary proceedings were well established. They were to protect the public and to maintain proper industry standards. He 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. Mr Robinson submitted that Mr Redward's offending was moderately serious as there were three separate issues with the work and while no harm eventuated in this case, the defects posed a high risk to the health and safety of the people using the motorhome. Mr Robinson submitted that the Board had previously stated that gasfitting work in a caravan was "inherently dangerous" and he submitted that this also applied to motorhomes. It was an aggravating factor that Mr Redward had certified the work when it was incorrect and that he had declined to rectify it. However, Mr Robinson accepted that the work Mr Redward had carried out in this case was relatively confined.

6. Mr Robinson referred the Board to its previous decisions in the cases of *Radovich v Atkinson* (2022/16), *Radovich v Fauchelle* (2021/15), and *Radovich v Mills* (2021/11) all of which involved gasfitting carried out in caravans. In *Atkinson*, Mr Atkinson pleaded guilty to carrying out gasfitting in a manner contrary to an enactment and filing a false or misleading certificate in relation to the installation of a unsealed gas heater. The Board considered the work was at the low end of highly serious and adopted a starting point of $7,000 for the fine in his case. In *Fauchelle*, Mr Fauchelle pleaded guilty to the same charges in relation to the installation of a fridge. Again, the Board considered the work was high risk and adopted a starting point for the fine of $5,000. Finally, in *Mills*, Mr Mills was found guilty of carrying out gasfitting in a manner contrary to an enactment in relation to the installation of a cooker, water heater, and fridge in a caravan that was non-compliant in a number of ways. The Board considered Mr Mills offending was moderately serious and adopted a starting point of $4,500 for the fine. Mr Robinson submitted that Mr Redward's offending

was comparable to all three cases, though less serious than *Atkinson* and more serious than *Mills*. He submitted a comparable starting point fine was therefore appropriate in this case.

7. Mr Robinson submitted the investigator was not aware of any aggravating factors personal to Mr Redward and acknowledged that a discount would be available to recognise his guilty plea, cooperation, and lack of previous disciplinary history.

8. Mr Robinson submitted that under section 107 of the Act, the Board could require Mr Redward to pay a contribution towards the costs and expenses of the investigation, prosecution, and hearing. He submitted that the usual starting point for an order of costs was half of the actual costs and acknowledged that Mr Redward may be entitled to a reduction from this point to recognise his guilty plea and cooperation.

9. On behalf of Mr Redward, Mr Pawson agreed with the principles of disciplinary proceedings cited by the investigator. However, Mr Pawson submitted that how a practitioner was treated was important and penalties should not be seen as punishment. Mr Pawson referred to the *Solicitor-General's Prosecution Guidelines 2016* and submitted that, contrary to those guidelines which provided that offences do not necessarily have to be prosecuted, there was an appearance of being quick to prosecute in this case when other options such as a warning were available.

10. Mr Pawson submitted that while consistency with other cases should be sought, each case was different and the Board should revert to first principles and draw its own conclusions. He submitted that Mr Redward had cooperated with the investigation and pleaded guilty. Mr Redward was also remorseful.

11. Mr Pawson submitted that Mr Redward had young children and was under financial pressure given the serious downturn in the economy. The process had also taken a toll on him.

12. In terms of the offending, Mr Pawson submitted that it was minor and extremely unlikely to be repeated. In the circumstances, he submitted that a censure was the most appropriate penalty.

13. Mr Pawson submitted that Mr Redward should only have to pay 50% of the costs of this matter. He had been cooperative from the outset and had not sought to delay the proceedings.

Decision on penalty

14. 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.

15. Having considered the parties' submissions and the facts of the case, the Board considered that Mr Redward's offending was moderately serious, but at the higher end on that scale. The work had been carried out in a motorhome which the Board considered made the defects with the work higher risk. While the grommet had been installed, the fact that it was did not create a complete seal on the storage locker meant there was potential for harm and damage. In addition, Mr Redward had not taken steps to rectify the issue when Mr McCarthy had raised it with him.

16. The Board accepted there were no aggravating factors personal to Mr Redward and that his guilty plea, cooperation, and lack of previous disciplinary history were mitigating factors in his favour.

17. The Board considered that the appropriate penalty was a fine with a starting point of $5,000. Recognising the mitigating factors in the case, the Board reduced the fine to $3,750.

Costs

18. 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 $14,770.50.

19. The Board accepted that Mr Redward's guilty plea and cooperation had helped to keep the costs down and determined that he should pay $5,900 towards costs, which was around 40% of the total costs.

Publication

20. In accordance with the requirements of the Act, the Board ordered that details of the action taken against Mr Redward should be recorded on the register of plumbers, gasfitters, and drainlayers in the usual way. Any other publication of the Board's orders would be at the discretion of the Registrar of Plumbers, Gasfitters and Drainlayers.

Board orders

21. Being satisfied that Mr Redward was guilty of a disciplinary offence 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 Redward pay a fine of $3,750.

b. Pursuant to section 107 of the Act, Mr Redward pay $5,900 towards the costs of the investigation, prosecution, and hearing.

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

Appeal

22. If Mr Redward 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 16 January 2025

Signed



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Diana Kuhtz-Covich
Chair
Plumbers, Gasfitters and Drainlayers Board