Plumbers,
Gasfitters and
Drainlayers Board

JURY v BALL

Plumbers, Gasfitters & Drainlayers Board Disciplinary Decision (2025/1)

Summary

Gareth Ball, Certifying Plumber, was charged with carrying out, or causing sanitary plumbing to be carried out in a negligent or incompetent manner. The charge related to work carried out by Mr Ball and his employees at a residential property during renovations. Sometime after the work was completed, a new owner of the property experienced problems with toilets blocking and leaking under the house and a number of defects were found with the work that had been carried out.

Mr Ball pleaded guilty to the charge.

The Board considered Mr Ball's offending was moderately serious due to the number of defects and the risk they created. The Board considered there were several mitigating factors in the case including Mr Ball's guilty plea, cooperation, and lack of previous disciplinary history. Mr Ball had also attempted to remediate the work and had changed his work practices to ensure he would not repeat the same conduct.

The Board ordered Mr Ball to pay a fine $1,950 and $4,600 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 **GARETH BALL**
Certifying Plumber, of Auckland/Tāmaki Makaurau

Registered Person

DECISION OF THE BOARD
20 May 2025

Hearing:	Held in Wellington/Te Whanganui-a-Tara on 26 March 2025
Members sitting:	Martin de Gouw (Chair) Diana Kuhtz-Covich, Selwyn Hikuroa, Beth Healy, Tofa Suafole Gush
Counsel:	Madeleine Purcell for the investigator Mr Ball was self-represented
Legal advisor:	Michael Hodge

Disciplinary hearing

1. On 26 March 2025, the Plumbers, Gasfitters and Drainlayers Board (**Board**) held a disciplinary hearing to consider a complaint by Jerome Smith against Gareth Ball, Certifying Plumber. The complaint related to sanitary plumbing undertaken at residential premises in Auckland/Tāmaki Makaurau.

Guilty plea

2. On 7 February 2025, Mr Ball pleaded guilty to a charge of carrying out or causing sanitary plumbing to be carried out in a negligent or incompetent manner and signed an agreed summary of facts, the material parts of which were as follows:

    a. Mr Ball is a registered and licensed certifying plumber and the director of his own plumbing and gasfitting company.

    b. Between September 2021 and May 2022, Mr Ball and his employees carried out sanitary plumbing work during renovations at a residential property in Onehunga, Auckland.

    c. The sanitary plumbing work included upgrading the fixtures in the existing bathroom, installing a new bathroom with a toilet and vanity, upgrading a shower mixer, installing a new laundry tub, and fixing the kitchen and laundry wastes.

    d. Mr Smith purchased the property in August 2023. The day Mr Smith moved in two of the toilets became blocked and he was unable to clear the drains.

    e. Several days after moving in, Mr Smith was carrying out work underneath the house and noticed that the pipework for a third toilet was leaking under the house when the toilet was flushed.

    f. Mr Smith engaged a plumbing company to attend the property and unblock the toilets. The company returned to the property on a number of occasions to undertake other remedial work.

    g. Mr Smith subsequently made a complaint to the Board about the sanitary plumbing work carried out by Mr Ball and his employees.

    h. Samuel Wood, a Certifying Plumber and technical advisor engaged by the Board provided a technical assessment of the sanitary plumbing work at the property and identified the following issues:

        i. the toilet waste pipe above the concreate slab was not glued making it more likely to leak, contrary to clause G13.3.1(b) of the New Zealand Building Code (**Code**)

ii. there was no vent on the combined waste system for the laundry tub, shower, hand basin and kitchen sink, contrary to clauses G13.3.1(b) and (c) of the Code

iii. the wastes from multiple fixtures were connected to one 40mm discharge pipe without fixture vents, contrary to clauses G13.3.1(b) and (c) of the Code

iv. a pan connector for one of the toilets was installed upside down, contrary to clauses G13.3.31(b) and (c) of the Code.

i. In Mr Wood's opinion, the risk of harm the sanitary plumbing work posed to persons or property was high due to the leaking soil pipes and blocked drains.

3. The Board was satisfied that the facts in the agreed summary of facts meant that Mr Ball had committed a disciplinary offence under section 89(a)(i) of the Plumbers, Gasfitters, and Drainlayers Act 2006 (**Act**).

Penalty and costs submissions

4. On behalf of the investigator, Ms Purcell 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 the principles and purposes of the disciplinary proceeding were met.

5. Ms Purcell submitted that Mr Ball's offending was moderately serious as there had been multiple defects with the work and those defects had create a risk to people and property because foul water could leak on to the property from leaking pipes and blocked drains. Ms Purcell submitted that that risk eventuated the day Mr Smith moved into the property and two of toilets became blocked and he was unable to clear them. Mr Smith subsequently discovered the third toilet was leaking underneath the property.

6. Mr Ball accepted that he and his employees had carried out the work and Ms Purcell submitted that as an experienced certifying plumber, he was responsible for ensuring the work was carried out competently. She submitted that he had failed to do so in this case.

7. Ms Purcell referred the Board to its previous decisions in the cases of *Thomas v Atkinson*, 2020/5, *Costelloe v Harmse*, 2018/4, and *Thomas v MacDonald*, 2019/17. In *Atkinson*, Mr Atkinson pleaded guilty to carrying out or causing sanitary plumbing to be carried out in a negligent or incompetent manner and failing to properly supervise

a trainee. The Board adopted a starting point for the fine of $2,500. Unlike Mr Atkinson, Mr Ball was only charged with negligent or incompetent sanitary plumbing. However, Ms Purcell submitted that the oversight he had provided to his employees had clearly been insufficient as he had failed to identify the defects with the work. She submitted the defects in Mr Ball's case were also more extensive than in Mr Atkinson's case justifying a higher starting point for the fine.

8. In *Harmse*, Mr Harmse pleaded guilty to permitting an unauthorised person to carry out sanitary plumbing and causing sanitary plumbing to be carried out in a non-compliant manner. While the defects with the work were not particularly serious, the Board was concerned at the manner in which the work was performed. Mr Harmse was fined $3,500 suggesting a likely starting point for the fine of $4,000. Ms Purcell submitted that the defects in the present case were more serious as they presented a risk to people and property. However, there was no suggestion that any of Mr Ball's employees were unauthorised which justified a slightly lower starting point than in the *Harmse* case.

9. Finally, in the *MacDonald* case, Mr MacDonald pleaded guilty to negligent or incompetent sanitary plumbing and carrying out sanitary plumbing when unauthorised and therefore contrary to an enactment. The Board considered Mr MacDonald's offending was medium to high in terms of seriousness as there were numerous defects with the work. Ms Purcell submitted that Mr Ball's offending was not as serious as in the *MacDonald* case as he is a certifying plumber. A lower starting point for the fine in this case was therefore appropriate.

10. Ms Purcell submitted that the investigator was not aware of any aggravating factors personal to Mr Ball. She submitted he was entitled to credit for his guilty plea, cooperation during the proceedings, and lack of previous disciplinary history.

11. Ms Purcell submitted that under section 107 of the Act, the Board could require Mr Ball 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 acknowledged that Mr Ball may be entitled to a reduction from this point to recognise his guilty plea and cooperation.

12. In his submissions on penalty, Mr Ball submitted that a fine was an appropriate penalty in this case. He submitted that while he had been on site for the majority of the time for this project, he accepted that he failed to identify the issues with the work. He submitted that he has since changed his approach to overseeing work and now all work is double checked before handover.

13. Mr Ball submitted that his offending was moderately serious. He submitted that he missed an uninstalled vented fixture on the double bowl vanity his employee had installed and had not checked existing pipework for the correct installations. He

submitted that he had initially tried to contact Mr Smith and would have been happy to remedy the defects but he was not given the opportunity to do so.

14. Going forward, Mr Ball submitted he had made sure to do his due diligence on every project and to double check all work carried out by his staff. He is also introducing better systems for managing his staff, including requiring them to take photographs of all work they carry out so he can check the work before the job is completed.

15. Describing his personal circumstances, Mr Ball submitted that things were tough as he was constantly waiting on payments from building companies due to them not being paid. He submitted that the current climate was impacting his business.

16. Finally, Mr Ball submitted that the property concerned had been on Air BnB for two years before being purchased by Mr Smith and no issues had been brought to his attention. He submitted that he still works for the previous owner so he would have known had there been issues at the property. He also submitted that the work had been signed off by the council and he reiterated that he would have been happy to remediate the defects had he had the opportunity.

Decision on penalty

17. 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.

18. Having considered the parties' submissions and the facts of the case, the Board determined that Mr Ball's conduct was moderately serious. There had been a number of defects with the work and they had created a risk of foul air or sewerage entering the building. However, Mr Ball had accepted that it had been his responsibility to check the work and he had therefore failed in this case. The Board were impressed by Mr Ball's genuine and sincere acceptance of responsibility and had some sympathy for him in the circumstances of the case.

19. The Board found there were no aggravating factors in the case and Mr Ball was entitled to credit for his guilty plea, cooperation, and lack of previous disciplinary offending. The Board also considered that Mr Ball was clearly remorseful, had attempted to remediate the defective work, and had made changes to how he managed his employees and checked off their work.

20. The Board considered that a fine was the appropriate penalty and adopted a starting point of $3,000. Recognising the significant mitigating factors in this case, the Board reduced the fine to $1,950.

Costs

21. 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 $15,581.

22. The Board accepted that Mr Ball's guilty plea and cooperation had helped to keep the costs down and that a further discount was appropriate to recognise his particular circumstances. The Board determined that he should pay $4,600 towards costs which was around 30% of the total costs.

Publication

23. In accordance with the requirements of the Act, the Board ordered that details of the action taken against Mr Ball 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

24. Being satisfied that Mr Ball was guilty of a disciplinary offence under section 89(a)(i) of the Act, the Board made the following orders:

    a. Pursuant to section 106(1)(f) of the Act, Mr Ball pay a fine of $1,950.

    b. Pursuant to section 107 of the Act, Mr Ball pay $4,600 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 Ball be published on the register.

Appeal

25. If Mr Ball 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 20 May 2025

Signed



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Martin de Gouw
Chair
Plumbers, Gasfitters and Drainlayers Board