

APPEAL NUMBER: NOAA 26-08

IN THE MATTER OF AN APPEAL UNDER PART IV OF ONTARIO REGULATION 187/09
MADE UNDER THE *SAFETY AND CONSUMER STATUTES ADMINISTRATION ACT, 1996*

BETWEEN:

HARMONY HOMES QUINTE LTD.

Appellant

- and -

DIRECTOR OF LICENSING, ELECTRICAL SAFETY AUTHORITY

Respondent

Decision of the Review Panel

Review Panel: Jeff Dunn
Hearing Dates: In writing
Appeal Number: NOAA 26-08

For the Appellant

Self-represented (Tom Streek, President)

For the Respondent

Maureen Salama, Brauti Thorning LLP

Independent Legal Counsel

Justin Safayeni

I. BACKGROUND

1. This appeal hearing was conducted by the Review Panel (“**Panel**”) in writing, pursuant to rule 19.3 of the Electrical Safety Authority’s (“**ESA**”) *Rules of Procedure for Reviews and Appeals* (“**Rules**”).
2. The basic facts and chronology in this case are set out in the ESA’s materials. The Appellant’s submissions do not materially contest the underlying facts, although the Appellant characterizes them differently in certain respects, as described below.
3. The Appellant, Harmony Homes Quinte Ltd., is a general contractor operating out of Foxboro, Ontario. Tom Streek is the President of the company. According to Mr. Streek, Harmony Homes has been operating for approximately 16 years and has had no prior enforcement history with the ESA.
4. The Appellant acted as the general contractor for a home rebuilding project on Mountain Road in Rideau Lakes, Ontario (the “**Property**”). The project involved rebuilding the home of a client after his previous home was destroyed in a fire. The client wanted the new home to be “off-grid” and to reuse existing solar panel equipment.
5. Harmony Homes engaged Dean Leclair of Leclair Electric Inc., a Licensed Electrical Contractor (“**LEC**”), for the standard electrical work on the project.
6. Harmony Homes also engaged Jeff Birkle of Quasar Alternative Energy Inc. (“**Quasar**”) to provide parts and labour for the solar panel installation. Neither Mr. Birkle, nor Quasar, were LECs.
7. On January 18, 2023, before the rebuild project was even awarded to Harmony Homes, Mr. Birkle sent a text message to Mr. Streek stating: “Also note that I can only work under a master electrician who takes out all the permits.” Mr. Streek indicated he understood this message.
8. On October 11, 2023, Mr. Leclair contacted the ESA to obtain a Notification of Work (“**NOW**”) for electrical wiring, a hot water tank and a furnace for the residential home.
9. In approximately November 2023, Mr. Birkle performed electrical work on the solar installation at the Property, specifically the installation of electrical inverters and the connection of the solar system, without a NOW and without being licensed to perform electrical work.
10. On January 29, 2024, Mr. Leclair requested a final inspection of his completed electrical work. On January 31, 2024, ESA Inspector Jason Hammond attended the Property and observed that electrical work associated with the solar energy system had been performed. Inspector Hammond was advised that this work had been completed by Mr. Birkle of Quasar. Inspector Hammond issued an Investigation Inspection Defect Notice to Mr. Birkle.

11. The ESA confirmed that neither Mr. Birkle nor Quasar was licensed to perform the electrical work associated with the solar energy system, and that no NOW had been obtained for that work.
12. The ESA assigned investigator Ben Kelly to the matter. On April 18, 2024, Mr. Kelly attended the Property and spoke with the homeowner, Mr. Mulville. On April 30, 2024, Mr. Kelly obtained an audio statement from Ben Way, Harmony Homes' Project Manager, who confirmed that Tom Streek had subcontracted the solar system electrical work to Quasar and Mr. Birkle. Mr. Way stated that he "assumed" Quasar was licensed and did not ask for proof of licensing.
13. On May 24, 2024, Mr. Kelly obtained a cautioned audio-taped statement from Mr. Birkle. In that statement, Mr. Birkle admitted performing electrical work on the solar installation and acknowledged that it "absolutely" required a NOW. Mr. Birkle also provided text messages showing (i) he had told Mr. Streek on January 18, 2023 that he could "only work under a master electrician who takes out all the permits"; and (ii) he had texted Mr. Way on November 6, 2023 advising that he had told Mr. Streek that the "master electrician for the project" would obtain the permit and that Mr. Birkle "works under the master."
14. On July 2, 2025, the Director of Licensing, Sarah Kempel ("**Director**"), issued a Notice of Intent to Issue an Administrative Penalty Order to Harmony Homes for permitting Quasar to carry out electrical work while unlicensed.
15. On July 21, 2025, the Director issued an Administrative Penalty Order ("**APO**") (APO No. AP-2026-0008-B) to the Appellant, pursuant to s. 113.18.1(1) of the *Electricity Act, 1998* ("**Act**"). The APO describes the Appellant's contravention ("**Contravention**") as follows:

Between December 1, 2022, and March 31, 2024, you permitted or employed Quasar Alternative Energy Inc. to carry out electrical work, which is an activity referred to in the regulations under the Act as requiring an authorization, when they were not authorized to do so, contrary to ss. 113.2(1) of the *Electricity Act, 1998*.
16. The APO imposed an administrative penalty in the amount of \$5,000.
17. On or about July 24, 2025, the Appellant filed a Notice of Appeal.
18. A Notice of Review Panel Hearing was issued on April 17, 2026, providing for a written process. The ESA filed its Submissions and Book of Documents on July 10, 2026.
19. The Appellant's submissions were filed on August 10, 2026, ten days past the filing deadline. The Review Panel directed that the late material be accepted for filing pursuant to rule 1.3 of the ESA Rules of Procedure. The ESA filed Reply Submissions on August 25, 2026. The Appellant filed a Sur-Reply on August 28, 2026.

II. LEGISLATIVE SCHEME

20. With respect to liability, the key provision is s. 113.2(1) of the *Act*, which provides the basis for the Contravention. Section 113.2(1) states:

113.2 (1) No person shall employ or permit a person to carry out activities referred to in the regulations under this Act as requiring an authorization unless that person is authorized under this Act, including authorized by a regulation made under this Act, to carry out such activities. [Emphasis added].

21. Ontario Regulation 570/05 (*Licensing of Electrical Contractors and Master Electricians*) defines “electrical contracting business” and “electrical work.” Electrical work requiring a licence includes the installation, alteration, repair, and connection of electrical equipment. The Appellant does not dispute that the solar panel installation work performed by Quasar falls within the scope of “electrical work” as defined by O. Reg. 570/05.

22. With respect to the administrative penalty imposed by the Respondent, the key provision is s. 113.18.1 of the *Act*, which states:

113.18.1 (1) A Director may, by order, impose an administrative penalty against a person in accordance with this section and the regulations made by the Minister if the Director is satisfied that the person has contravened or is contravening,

(a) a prescribed provision of this Part or the regulations;

...

(3) An administrative penalty may be imposed under this section for one or more of the following purposes:

1. To ensure compliance with this Part or the regulations.

2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of a contravention described in subsection (1).

(4) The amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations made by the Minister, but the amount of the penalty shall not exceed \$10,000.

23. Also relevant is s. 113.18.1(7) of the *Act*, titled “Absolute liability”, which states:
- (7) An order made under subsection (1) imposing an administrative penalty against a person applies even if,
- (a) the person took all reasonable steps to prevent the contravention on which the order is based; or
 - (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.
24. Further detail on the administrative penalty regime is set out in O. Reg 12/23 under the *Act* (the “**Regulation**”), which provides as follows:
- 6.** For the purposes of subsection 113.18.1 (4) of the Act, a Director shall determine the amount of an administrative penalty for a contravention prescribed in section 1 of this Regulation in accordance with the following rules:
- 1. The Director shall determine whether, in the Director's opinion, the contravention had a major, moderate or minor adverse effect, or the potential to have such an adverse effect, on electrical safety.
 - 2. The range for the administrative penalty is set out in Column 2 of the Table to this section opposite the determination set out in Column 1 as described in paragraph 1.
 - 3. The amount of the administrative penalty for the contravention is an amount selected by the Director from within the range described in paragraph 2 after considering the following criteria:
 - i. Whether the person who committed the contravention has previously been subject to enforcement actions under Part VIII of the Act or its regulations for contraventions of a similar nature.
 - ii. The extent of the harm, or of the degree of risk of harm, to others as a result of the contravention.
 - iii. Whether the contravention was deliberate.
 - iv. Whether the contravention was repeated or continuous.
 - v. The length of time during which the contravention continued.
 - vi. Whether the person who committed the contravention derived any economic benefit from the contravention.

TABLE
RANGE OF ADMINISTRATIVE PENALTIES

Column 1 Severity of adverse effect or potential adverse effect	Column 2 Range
Major	From \$5,001 to \$10,000
Moderate	From \$1,001 to \$5,000
Minor	From \$100 to \$1,000

III. ISSUES TO BE DECIDED

25. The issues to be decided on this appeal are: (i) whether the ESA has proven that the Appellant committed the Contravention on a balance of probabilities; and (ii) if so, whether the \$5,000 penalty in the APO should be confirmed or varied.
26. As was recently explained in *Soheil Sobat v Director of Licensing, Electrical Safety Authority*¹, in the context of another appeal from an APO, this appeal hearing before the Review Panel is, in effect, a *de novo* process. That means that this Panel must assess for itself the correct interpretation and application of the relevant statutory provisions, rather than deferring to the Director's views or analysis, both with respect to liability and with respect to penalty.

IV. LIABILITY

A. The Appellant's Position

27. The Appellant argues that it was not negligent and should not be penalized, raising the following arguments in support of its position.
28. First, the Appellant submits that it had no prior experience with solar energy systems and did not know that a separate ESA permit was required for the solar panel installation, as distinct from the standard new home ESA permit. The Appellant states that in all of its prior projects, it has always worked under one new home ESA permit that covered all electrical items.
29. Second, the Appellant contends that when Mr. Birkle communicated on January 18, 2023 that he could “only work under a master electrician who takes out all the permits,” this did not raise red flags. The Appellant understood this to mean that Mr. Birkle’s work would be covered under the standard project ESA permit obtained by the LEC, Mr. Leclair.

¹NOAA-23-05 at paras 12-14.

30. Third, the Appellant argues that it did not discover the issue until late in the building project and then moved assertively to resolve it. The Appellant submits that it had no motive to avoid securing a separate permit.
31. Fourth, the Appellant emphasizes that Harmony Homes has operated for approximately 16 years with a flawless ESA compliance history and submits that a warning would be the appropriate response in the circumstances.

B. The Respondent's Position

32. The ESA argues that the Contravention is clearly made out on the evidence. The ESA submits as follows:
33. First, Harmony Homes was the general contractor for the project and bore ultimate legal responsibility to ensure that all work was done lawfully, including by ensuring that subcontractors were properly licensed.
34. Second, Mr. Birkle's January 18, 2023 text message to Mr. Streek informed the Appellant that Quasar could "only work under a master electrician who takes out all the permits." Despite this knowledge, Harmony Homes took no steps to verify Quasar's licensing status or to ensure that proper permits were obtained for the solar work.
35. Third, Mr. Way, the Appellant's Project Manager, admitted in his audio statement to ESA investigator Ben Kelly that he "assumed" Quasar was licensed and did not ask for proof of licensing. The ESA submits that this demonstrates a failure to exercise any diligence.
36. Fourth, Mr. Birkle himself admitted in his cautioned statement that he performed electrical work on the solar installation and that it "absolutely" required a NOW.
37. Fifth, the ESA argues that the Contravention is one of absolute liability pursuant to s. 113.18.1(7) of the *Act*. Even if the Appellant had an honest and reasonable belief that the standard project permit covered the solar work, this is not a defence. The APO applies even if the Appellant took all reasonable steps to prevent the contravention or had a mistaken belief in the relevant facts.

C. Decision

38. Applying the balance of probabilities standard, I conclude that the Appellant committed the Contravention. The Appellant's arguments have little relevance to the issue of whether the Contravention occurred. The Appellant acknowledges that it permitted Quasar to complete the work at issue, that the work required a LEC, and that neither Quasar nor Mr. Birkle were licensed or authorized to do the work (despite the Appellant purporting to believe that they were). In my view, this is sufficient to conclude that the Appellant "permitted" Quasar to carry out electrical work without the required authorization, contrary to s. 113.2(1) of the *Act*. Again, s. 113.18.1(7) is clear that liability cannot be avoided based on "an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent".

V. PENALTY

A. The Appellant's Position

39. The Appellant effectively repeats the same arguments outlined above in Part IV.A in favour of a more lenient penalty, such as a warning. The Appellant further contends that it was not negligent, had no motive to avoid obtaining a separate permit, and that the incident was a learning experience. The Appellant states that it has since learned from this situation and will ensure proper licensing verification in future projects.

B. The Respondent's Position

40. The ESA argues that the \$5,000 penalty is justified and addresses each of the criteria under s. 6 of the Regulation as follows:
- *Previous enforcement action.* The ESA acknowledges that the Appellant has no prior enforcement history.
 - *Extent of harm and degree of risk of harm.* The ESA argues that the risk of harm from permitting unlicensed electrical work is serious. The NOW process was circumvented, which prevented ESA inspection of the solar installation work. The ESA submits that the work was only discovered because Mr. Leclair had independently obtained a NOW for his own electrical work, which triggered an inspection at which the unauthorized solar work was observed.
 - *Deliberate.* The ESA submits that the evidence shows the contravention was deliberate. Mr. Birkle's text messages demonstrate that Harmony Homes was aware that Quasar could “only work under a master electrician who takes out all the permits.” Despite this, the Appellant took no steps to verify licensing or obtain proper authorization.
 - *Repeated or continuous, and length of time.* The ESA acknowledges that there is no evidence the Contravention was continuous or lasted for an extended period of time.
 - *Economic benefit.* The ESA does not allege a meaningful economic benefit derived from the contravention.
41. The ESA further submits that general and specific deterrence require a meaningful penalty. The ESA also argues that a warning is not an available penalty under the APO regime — the minimum administrative penalty under the Regulation is \$100.

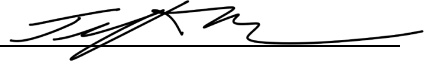
C. Decision

42. I conclude that an appropriate APO amount in the circumstances of this case is \$2,000.
43. In assessing the proper APO amount, section 6 of the Regulation states that the first step is to determine whether “the contravention had a major, moderate or minor adverse effect, or the potential to have such an adverse effect, on electrical safety.” This determination then leads to a penalty range, as reproduced in the table in Part II of this decision.
44. The original APO amount here was \$5,000, reflecting the ESA’s view that the severity of any adverse effect, or potential adverse effect, was in the “moderate” range. I agree with this assessment. Having unlicensed contractors carry out electrical work without obtaining a NOW poses real safety risks and the potential for adverse effects on electrical safety.
45. Under the Regulation, the APO amount in the moderate range goes from \$1,001 to \$5,000 — meaning that the ESA penalty would put the Appellant at the very highest end of the moderate range.
46. In assessing the appropriate quantum, I must consider the six factors set out in section 6 of the Regulation. I have carefully considered those factors. I agree with the ESA that four of the factors — previous enforcement action, whether the Contravention was repeated or continuous, whether it lasted for a long period of time, and whether the Appellant derived an economic benefit — do not militate in favour of a significant APO. Accordingly, I focus my comments on the two remaining factors that the ESA relies on to justify the \$5,000 APO amount.
47. With respect to the extent of harm and degree of risk of harm to others, I agree with the ESA that there was a serious risk of harm flowing from unlicensed electrical work and the failure to obtain a NOW, for the reasons stated above.
48. However, I do not agree with the ESA that the Appellant’s conduct in this case was proven to be intentional or deliberate on a balance of probabilities. The ESA relies heavily on this factor in justifying the APO amount. As the ESA puts it, “[t]his fact alone is quite aggravating and goes a long way to justify the \$5,000 fine imposed” (ESA submissions at para. 42). In my view, the Appellant may well have interpreted or understood the communications from Mr. Birkle to mean that he had or would retain the services of a Master Electrician, or that Mr. Birkle’s work would otherwise be covered under the standard permit obtained by LEC Mr. Leclair. To be clear, the Appellant could and should have done more to ensure the work was being done in accordance with authorization requirements. But based on the record before me, I am not satisfied that the Appellant’s conduct was “deliberate” within the meaning of section 6 of the Regulation.
49. The lack of any deliberate conduct, together with an assessment of the other relevant factors in section 6, points towards a reduced APO being appropriate for the Contravention. In the circumstances, I consider the proper quantum for an APO to be \$2,000. This amount remains significant, recognizes the severity of the Contravention, and sends the Appellant a clear message that it must do better in the future when it comes to ensuring electrical work is done by those with appropriate authorizations.

VI. ORDER

50. The Panel confirms the APO in this matter in respect of the Contravention and varies the administrative penalty amount to \$2,000.

Dated this 17th day of September, 2026.



Jeff Dunn