
ELECTRICAL SAFETY AUTHORITY REVIEW PANEL FOR LICENSING

B E T W E E N:

KARL S. RABEL
(the “Applicant”)

- and -

DIRECTOR, LICENSING AND CERTIFICATION
(the “Director”)

DECISION

Review Panel: Wasim Hassan, Reg MacDonald, Robert Nelson
Date: March 28, 2008
File Number: 6006960
Appeal Number: NOAL08-006

APPEARANCES

Director, Licensing, and Certification)	Richard Steinecke, Counsel
)	Lucy Impera, Director, Licensing
)	and Certification
)	Patience Cathcart, Project
)	Coordinator, Licensing and
)	Certification
Karl S. Rabel)	Karl S. Rabel
)	
)	

INTRODUCTION

[1] A hearing in this matter was held on Thursday, March 13, 2008 before the Review Panel comprised of Wasim Hassan, Reg MacDonald and Robert Nelson. There were no objections to the jurisdiction of the Review Panel to hear this matter and there were no other preliminary objections.

[2] At the outset of the hearing, the Director filed a Documents Brief which was not objected to by the Applicant and was admitted and marked as Exhibit A. The Documents Brief contained documents showing the record of the Applicant's dealings with the Director in connection with this matter and it was agreed by the parties that the Documents Brief included all documents which are relevant to the issues in this matter and that the documents would be admitted into evidence without further proof. Those documents will be referred in this Decision by reference to the Tab numbers of the Documents Brief. In addition, the Director also filed a Book of Authorities.

[3] On January 18, 2008, a Notice of Proposal was issued by the Director to the Applicant (Tab 3) refusing to grant a master electrician license to the Applicant pursuant to section 113.2 of the *Electricity Act, 1998* on the basis that the Applicant had failed to demonstrate three years' experience as a construction and maintenance electrician, a domestic and rural electrician or an industrial electrician carrying on electrical work under a valid certificate of qualification as required under section 11 of Ontario Regulation 570/05.

[4] On January 24, 2008, a Notice of Appeal before the Director of Licensing was filed by the Applicant pursuant to which the Applicant sought to appeal the Director's refusal to grant him a master electrician license. The Applicant claimed that he had had several years of experience working as an electrician prior to receiving his certificate of qualification in December of 2007 (Tab 4).

[5] On February 5, 2008, the Director issued her decision refusing to grant the Applicant's appeal to the Director, on the grounds that the Applicant had not yet met the requirements for obtaining the master electrician license as prescribed under sections 11 and 31 under Ontario Regulation 570/05 (Tab 6). The decision of the Director also states that given that the Applicant had already written and passed the master electrician exam, the Certificate of Examination will remain valid for a period of sixty (60) days after the meeting of the three year experience requirement for obtaining a master electrician license as prescribed under section 11(b)(i) of Ontario Regulation 570/05. The Director's decision to refuse to grant the Applicant a master electrician license was therefore confirmed.

[6] On February 19, 2008, the Applicant filed a Notice of Appeal before the Review Panel appealing the Director's decision (Tab 7). The Applicant's position as stated in the Notice of Appeal before the Review Panel is that he is appealing the finding of the Director that he failed to demonstrate at least three years of experience and he is claiming that he has experience that exceeds the three year requirement. The Applicant also states in support of his appeal that he has obtained his certificate of qualification on December 11, 2007. He claims that the reason he did not obtain his certificate of qualification sooner is that he was able to carry on business without it. He also claims that he was able to carry on business working in the capacity of an electrician

without actually being licensed, for several years. He further claims that during the time when the master electrician requirement was implemented, he had left his personal business pursuit and was investing his time and efforts in a welding/fabrication company (PFI Group Inc.) of which he was a shareholder, maintenance electrician and operations manager. He claims that in the first half of 2007 he decided to sell his shares, leave that company and go back into the electrician trade. It was at this time he claims he was informed that he had to have a master electrician license. He claims that he wrote the master electrician exam and after receiving a passing grade, he wrote for his certificate of qualification, made arrangements to go into business and applied for his master electrician license.

ISSUES

[7] There are two issues in this appeal. The first issue is whether the Applicant has, by virtue of his work experience, satisfied the requirements of section 11(b)(i) of Ontario Regulation 570/05, being the three year experience requirement for obtaining a master electrician license as required under Regulation 570/05. The second issue is whether there is any basis which would permit the overriding by the Director of the requirement of section 11(b)(i) of Regulation 570/05 as a condition for obtaining a master electrician license.

[8] In section 11 of Ontario Regulation 570/05 states:

11. An individual who applies for master electrician license shall not be issued the license unless the applicant,
 - (a) is at least eighteen years old;
 - (b) demonstrates at least three years experience;
 - (i) as a construction and maintenance electrician, a domestic and rural electrician or an industrial electrician carrying out electric work under a valid certificate of qualification;
 - (ii) working for an electrical contractor as a licensed professional engineer with the Professional Engineers of Ontario; or
 - (iii) working for an electrical contractor in the capacity of a certified engineering technician or a certified engineering technologist registered with the Ontario Association of Certified Engineering Technicians and Technologists;
 - (c) has passed the master electric qualifying examination within 12– month period preceding the date of the application; and
 - (d) does not owe the Authority any money for which payment arrangements have not been made.

[9] Section 1 of Ontario Regulation 570/05 defines a certificate of qualification as follows:

“certificate of qualification” means a certificate of qualification issued under the *Trades Qualification and Apprenticeship Act* or the *Apprenticeship and Certification Act, 1998*, as the case may be”

[10] It is not disputed that the Applicant does not have three years experience working under a “certificate of qualification” as defined in section 1 of Ontario Regulation 570/05. It is also not disputed that the Applicant is at least 18 years old, has passed the master electrician qualification examination and does not owe the Authority any money.

[11] In essence, the Applicant asks the Review Panel to consider his work experience as an electrician as a basis to override the requirements of section 11 of Ontario Regulation 570/05 that he “...demonstrates at least three years experience,...under a valid certificate of qualification.”

EVIDENCE

[12] The Applicant testified on his own behalf. The Applicant described his work experience in the electrical trade. He described his experience in British Columbia and in Ontario including experience working with Harry’s Electric Inc., Hoover Enterprises and Rabel Repair. The Applicant acknowledged, however, that this work experience was not obtained under a valid certificate of qualification. He acknowledged and it is a matter of record (see Tab 2 of Exhibit A) that while he passed the master electrician exam on September 25, 2007, he did not obtain a Certificate of Qualification under the *Trades Qualification & Apprenticeship Act* until December 11, 2007. Essentially, while the Applicant testifies that, in his opinion, his experience as an electrician should be sufficient to qualify him for a master electrician license, he admits that he does not have three years’ experience as a construction and maintenance electrician, domestic and rural electrician or an industrial electrician carrying out electrical work under a valid certificate of qualification.

[13] Under cross examination, the Applicant acknowledged that he knew that he needed a certificate of qualification but he was of the view that this requirement was not enforced and he was therefore not concerned with it.

[14] On behalf of the Director, Lucy Impera testified that she had been involved in the drafting of Ontario Regulation 570/05. She stated that the master electrician licensing requirements had been discussed widely with stakeholders including electrical contractors and other Ministries of the Ontario Government prior to the drafting of the Regulation. It was her view that there was no discretion granted to the Director under the Regulation with respect to the master electrician licensing requirements and that to make an exception would be unfair to the approximately 7,000 electricians who have complied with or are taking steps to comply with the Regulation. She also stated that the goals of the Regulation include consumer protection and to reduce the “underground economy” which refers to electricians doing electrical work without being qualified in accordance with provincial regulations.

ARGUMENT

[15] In closing the Applicant acknowledges that he did not qualify for a master electricians license under the “letter of the law” because he did not have three years relevant experience

under a certificate of qualification. He argues that this requirement discriminates against someone who nevertheless has experience as an electrician.

[16] On behalf of the Authority, Mr. Steinecke argued that the key provision is s. 11(b)(i) of Regulation 570/05 and that this provision clearly requires that an applicant **shall not be issued a license unless the Applicant demonstrates at least three years experience as a construction and maintenance electrician, domestic and rural electrician or an industrial electrician carrying out electrical work under a valid certificate of qualification** [emphasis added]. He argues that the intent of the legislation is two-fold. First, the legislation explicitly does not recognize illegal conduct, being experience obtained as part of the “underground economy” without a certificate of qualification. He further argues that the requirement of having experience under a valid certificate of qualification is necessary to allow for scrutiny of work performed by persons who are qualified and experienced. He emphasizes that the Director has no discretion under the relevant provision of the Regulation. Finally, Mr. Steinecke relies on a decision of this Review Panel, *Paul McGee c.o.b. McGee Electrical Repair Services and Director, Licensing and Certification* dated November 9, 2007 which addresses the very same issue as is before us in this case. In that case the Review Panel differently constituted, found, *inter alia*, that there is “no basis which would permit this Review Panel to override the requirement of s. 11(b)(i) of Regulation 570/05 as a condition for obtaining a master electrician license. It is clear that the Director has been granted no discretion under section 11 of Ontario Regulation 570/05 concerning the granting of a master electrician license.”

DECISION

[17] Having fully considered all of the evidence, including the documents filed and the submissions of the parties, it is clear that the Applicant does not meet the requirement for a master electrician license under section 11 of Ontario Regulation 570/05 as it is not disputed that he does not have at least three years experience as a construction and maintenance electrician, a domestic and rural electrician or an industrial electrician carrying out electrical work under a valid certificate of qualification. It is therefore clear that Mr. Rabel cannot demonstrate at least three years experience under a valid certificate of qualification as required by section 11(b)(i) of Ontario Regulation 570/05. Further, we conclude that there is no basis which would permit this Review Panel to override the requirement of section 11(b)(i) of Regulation 570/05 as a condition for obtaining a master electrician license. It is also clear that the Director has been granted no discretion under section 11 of Ontario Regulation 570/05 concerning the granting of a master electrician license. As a consequence, the Applicant’s experience as an electrician does not meet the mandatory requirements of Regulation 570/05.

[18] Taking into account all the evidence and the submissions of the parties, it is the decision of this Review Panel to deny the appeal of the Applicant. In this regard, we find that the Director’s Decision was the correct decision taking into account all relevant considerations.

Dated March 28, 2008

Wasim Hassan

Reg MacDonald

Robert Nelson