

**APPEAL NUMBER: NOAA 23-07**

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:

**CANJSTYLES AND GENERAL CONTRACTING and TRACEY-ANN JOHNSON**

Appellants

- and -

**ELECTRICAL SAFETY AUTHORITY**

Respondent

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**Decision of the Review Panel**

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Review Panel: Reena Goyal, Lee Lawrence

Hearing Dates: In writing

Appeal Number: NOAA 23-07

**For the Appellants**

Self-represented

**For the Respondent**

David G. Cowling,  
Mackenzie M. Campbell

**Independent Legal Counsel**

Justin Safayeni

## I. BACKGROUND

1. This appeal hearing has been 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 Appellant CANJSTYLES AND GENERAL CONTRACTING (“**CanJStyles**”) is a general partnership. CanJStyles has two partners: Tracey Johnson and her spouse, Ricks Johnson.
3. On November 30, 2023, the Director of Licensing (“**Director**”) issued separate Administrative Penalty Orders (“**APOs**”) against each of CanJStyles and Tracey Johnson, pursuant to subsection 113.18.1(1) of the *Electricity Act, 1998* (“**Act**”).
4. The APO against CanJStyles (“**CanJStyles APO**”) seeks \$3,000 for an alleged contravention of section 2-036 of the Ontario Electrical Safety Code (“**OESC**”), described as follows:

Between July 1, 2022 and October 31, 2022, you performed work on an electrical installation at 5 Highgate Dr., Hamilton in a manner contrary to the Ontario Electrical Safety Code.

5. The APO against Tracey Johnson (“**Johnson APO**”) seeks \$5,000 for an alleged contravention of section 3 of O. Reg. 570/05 (*Licensing of Electrical Contractors and Master Electricians*) (“**Licensing Regulation**”), described as follows:

Between July 1, 2022 and October 31, 2022, you operated an electrical contracting business, Canjstyles and General Contracting, without being the holder of an electrical contractor license.

6. Johnson and CanJStyles filed a Notice of Appeal on December 1, 2023, challenging the APOs as follows:
  1. The above noted business did not operate an electrical contracting business between Jul 1-Oct 31, 2022 at 5 Highgate Dr, Stoney Creek ON.
  2. We are not electricians and did not conduct any work at 5 Highgate Drive, Stoney Creek, ON. The electrical work at the above address was conducted by 2 electrical subcontractors over the period of July-December 2022.
  3. The above noted company has not been in operations since November 2022. The Electricians were hired by us to conduct work between the time the company was in operations. Proof of electronic funds transfer has been provided as proof. An ongoing dispute over monetary compensation and by whom has caused a lot of confusion at this job.
7. There is no dispute that neither CanJStyles nor Tracey Johnson holds an electrical contractor license. But the Appellants deny they completed any electrical work at 5 Highgate Dr; they

insist all of the electrical work was performed by a subcontractor(s). The ESA alleges that CanJStyles did, in fact, perform electrical work at 5 Highgate Dr.

8. The Appellants attached a number of supporting documents to the Notice of Appeal, including an email written by Tracey Johnson to the Respondent's counsel; the first page of a "Revised Service Agreement" between CanJStyles and "Ragu and Anusha Palaniapan of 5 Highgate Drive, Stoney Creek, ON L8J 2T6" (without any signature lines or signatures); and interac e-transfer records appearing to show payments to "Dexter" totalling \$1,500 and payments to "Michael- Electrician" totalling \$935.85.
9. ESA filed written submissions together with four supporting affidavits: one from Roger Neal (authorized ESA investigator); one from Sergio Maccallini (ESA inspector); one from Richard Bartolini (ESA inspector); and one from Michael Franklin (owner of 2712522 Ontario Inc., operating as Brella Electric).
10. Through inadvertence, it appears the affidavit of Michael Franklin ("**Franklin Affidavit**") was filed one day late (i.e. after the deadline set out in the Notice of Review Panel Hearing) on the morning of April 17, 2024 (rather than by end of day on April 16, 2024). The Appellants object to admission of the Franklin Affidavit on this basis.
11. The Appellants filed further materials on April 29, 2024. The materials read partly as written submissions and partly as an affidavit. The document is signed by both Tracey Johnson and Ricks Johnson, and someone named "Marcia Allan" who identifies herself as a "licensed marriage officiant of Ontario".
12. On May 7, 2024, the ESA filed its reply material, consisting of further submissions as well as affidavit evidence from Alexander Boissoneau-Lehner (counsel at the firm representing the ESA); an affidavit from Anusha Palaniappan (owner of 5 Highgate Drive in Stoney Creek, ON); and a supplementary affidavit from Roger Neal (authorized ESA investigator) including three voice recordings of telephone calls made by Tracey Johnson to the ESA.
13. The Appellants requested and were granted an opportunity to file further material in sur-reply, which they did on May 23, 2024 in the form of an affidavit-type document signed by both Tracey Johnson and Ricks Johnson, and commissioned by a lawyer.
14. The Review Panel has carefully considered all of the material filed by the parties. However, this decision references only certain materials particularly germane to the Review Panel's reasoning and determinations; it is not intended to be an exhaustive recitation of the evidence reviewed and considered by the Review Panel in reaching its conclusions.

## II. LEGISLATIVE SCHEME

15. Liability for the Johnson APO is an alleged contravention of section 3 of the Licensing Regulation:

“No person shall operate an electrical contracting business without an electrical contractor licence issued under this Regulation.” (An “electrical contracting business” is defined as “a business that is engaged in the carrying out of electrical work”: s. 1(1)).

16. Liability for the CanJStyles APO is an alleged contravention of Rule 2-036 of the OESC:

“No contractor shall perform any work on an electrical installation in any manner contrary to the requirements of this Code.”

Those requirements include filing a notification with the ESA of any work on an installation prior to commencement of the work, or within 48 hours after commencement of the work if prior notification is not practicable (Rule 2-004).

17. With respect to the administrative penalties imposed by the ESA, the key provision is subsection 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.

18. With respect to section 113.18.1(1), section 1(2) of O. Reg 12/23 made under the *Act* (the “**AMP Regulation**”) specifies that a breach of section 3 of the Licensing Regulation, as well as a breach of Rule 2-004 or 2-036 of the OESC, are “prescribed provisions”.

19. It is also relevant to note s. 113.18.1(7) of the *Act*:

**Absolute liability**

(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.

20. Further detail on the administrative penalty regime is set out in the AMP Regulation:

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

21. As was recently explained in *Soheil Sobat v Director Licensing, Electrical Safety Authority*<sup>1</sup>, 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 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.
22. Accordingly, the issues to be decided on this appeal are:
  - a. Has the ESA has proven the contraventions for the APOs on a balance of probabilities;
  - b. if the answer to a. is yes, then what is the appropriate AMP.
23. There are the following procedural issues, however, that will be first addressed:
  - a. the Appellants' objection to the Franklin Affidavit being filed one day late; and
  - b. the Appellants' objection to the APOs being issued for events prior to April 1, 2023.

### IV. PROCEDURAL ISSUES

#### A. Filing of the Franklin Affidavit

24. The Appellants object to the filing of the Franklin Affidavit on April 17, 2024, rather than April 16, 2024. The late filing appears to have been through inadvertence.
25. The Review Panel concludes the Franklin Affidavit is accepted as part of the record in this matter. The delay was modest, i.e. less than 1 day, and resulted in no demonstrable prejudice to the Appellants. We note that, pursuant to Rules 1.2 and 1.3, the deadlines prescribed by the Rules are to be used in a way that promotes flexibility and fairness in the circumstances.

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<sup>1</sup> NOAA-23-05 at paras 12-14.

**B. The timing of the APOs**

26. The Appellants argue the ESA has no authority to levy APOs for events that take place prior to April 1, 2023. Since the alleged misconduct occurred in October 2022, the Appellants' position is there was no authority for the ESA to issue the APOs.
27. The ESA objects to portions of the Appellants' submissions on this issue to the extent they make reference to discussions at a without prejudice settlement conference.<sup>2</sup> As its substantive response to the Appellants' argument that the APOs were issued without the proper authority, the ESA relies on subsection 52(4) of the *Legislation Act, 2006*, which provides that where an Act or regulation is amended, "[t]he procedure established by the new or amended Act or regulation shall be followed with necessary modifications, in proceedings in relation to matters that happened before the replacement or amendment."
28. The Review Panel agrees that discussions from a confidential and without prejudice settlement conference ought not be referenced in materials in this proceeding, and the Review Panel has not considered them. However, that does not resolve the substantive issue of whether the ESA had authority to issue the APOs in this case.
29. By email dated June 17, 2024, the Review Panel gave the parties an opportunity to file further submissions on this issue, which the Appellants and the ESA did on June 26 and June 30, respectively. Having reviewed these additional submissions, the Panel concludes the APOs are valid and not out of time.
30. The Review Panel accepts the ESA's position concerning subsection 52(4) of the *Legislation Act, 2006*. In particular, the Review Panel agrees that the APOs are retrospective rather than retroactive in nature, and that any presumption against retrospectivity generally is rebutted by the public protection nature of subsection 113.18.1(1) of the *Act*. Moreover, as submitted by the ESA, subsection 113.18.1(10) of the *Act* suggests the Director is not precluded from issuing an APO for prior events so long as it is not more than two years after the day the Director becomes aware of the contravention. Here, the APOs were dated November 30, 2023, in respect of events that allegedly occurred between July and October 2022.

**V. LIABILITY**

31. As set out above, it is admitted that neither Tracey Johnson nor Ricks Johnson (nor Ricks' brother) have the requisite licenses or qualifications to engage in electrical work. The dispute at issue is whether the electrical work at 5 Highgate was, in fact, conducted by one or more of these individuals or CanJStyles generally.
32. It is also admitted that Tracey Johnson and Ricks Johnson do not own 5 Highgate Drive, and is instead owned by Anusha Palaniappan and Anusha's husband. It is similarly undisputed

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<sup>2</sup> Specifically, the ESA takes issue with paragraphs 44-46 of the Appellants' response.

that Tracey Johnson and Ricks Johnson own a separate property at 77 Donn Avenue, Hamilton, ON (“**77 Donn**”).

**A. ESA’s Position**

33. The ESA contends that CanJStyles performed electrical work at 5 Highgate, relying mainly on the following:
- a. In July 2022, CanJStyles entered into an agreement with Anusha Palaniappan and her husband for certain work, including electrical work, at 5 Highgate.
  - b. On July 13, 2022, Tracey Johnson called the ESA’s customer service centre (“**CSC**”) to file a Notification. During that call, Tracey Johnson mentioned two properties: 5 Highgate and 77 Donn. Tracey Johnson indicated that she, Ricks and ‘Ricks’ brother’ would be completing the electrical work, and that Ricks and his brother were also owners of both properties.
  - c. On October 26, 2022, Tracey Johnson called the CSC again to request an inspection of the electrical work completed pursuant to the Notification that was filed on July 13, 2022.
  - d. In response to Tracey Johnson’s request for an inspection, Inspector Bartolini attended 5 Highgate on October 28, 2022 and noted several defects in the electrical work completed in the basement. Bartolini spoke with Anusha Palaniappan who told him that she and her husband owned 5 Highgate and they had retained CanJStyles to perform electrical work (among other things) at 5 Highgate.
  - e. Bartolini also spoke with Ricks Johnson, who claimed an electrician did the electrical work but did not provide the name of the electrician to Bartolini.
  - f. The affidavit evidence of Anusha Palaniappan, the owner of 5 Highgate, is that while another individual completed some of the wiring work in the basement of 5 Highgate, that individual did not return and Ricks then proceeded to complete the wiring himself. According to Anusha Palaniappan, the work to be completed included the installation of pot lights and plus, rewiring and upgrading electrical work in the basement, and the installation of a 200 amp panel upgrade.
  - g. Following the inspection on October 28, 2022, Tracey Johnson called the CSC and asked to cancel the Notification for 5 Highgate, explaining she was not the homeowner nor the individual completing the electrical work.
  - h. Michael Franklin of Brella Electric subsequently corrected the defects in the electrical work at 5 Highgate, filed a Notification with respect to the work and, on November 1, 2022, requested an inspection in respect of the work. This was Michael Franklin’s only involvement at 5 Highgate.
  - i. On November 30, 2022, Tracey Johnson sent the ESA an email stating: “[w]e then had to hire Michael of Brella Electric to complete the job. Whom we found on Kijiji. Admittedly there was confusion in the middle as I called ESA to pull a permit for my



house at 77 Donn and confused it with 5 Highgate Drive... I later called and cancelled the permit for 5 Highgate Drive after I realized the error.” The “Michael” referenced in this email is Mr. Franklin, who did not complete any electrical work at 5 Highgate until after Inspector Barolini’s inspection.

- j. Online (Kijiji) advertisements for CanJStyles & General Contracting indicate the partnership has qualified and certified electricians and plumbers.
34. With respect to the CanJStyles APO, the ESA argues that these facts establish that electrical work was conducted by CanJStyles at 5 Highgate in a manner contrary to the OESC, thereby contravening Rule 2-036. In particular, the ESA submits that since Tracey Johnson was not the homeowner of 5 Highgate, the Notification she filed (and then sought to cancel) was invalid, meaning that electrical work was done by CanJStyles at 5 Highgate without filing a Notification, in contravention of Rule 2-004 of the OESC. The ESA also relies on the six other defects identified by Inspector Bartolini during his inspection of 5 Highgate.
35. With respect to the Johnson APO, the ESA argues the above listed facts establish that Tracey Johnson operated an electrical contracting business without being a licensed electrical contractor, thereby violating the Licensing Regulations.
36. With respect to the Appellants’ position, the ESA takes issue with the credibility of many of the Appellants’ factual assertions, stating they are internally contradictory and illogical. In any event, whether or not the Appellants acted deliberately is irrelevant on the issue of liability, and at best relates to the appropriate quantum of penalty. The ESA also argues that regardless of whether CanJStyles is still in operation, the Appellants continue to remain liable pursuant to section 36 of the *Partnerships Act*.

**B. The Appellants’ Position**

37. The Appellants contend they never performed electrical work at 5 Highgate, and any suggestion to the contrary was due to a mixture of inadvertence and/or confusion, relying mainly on the following:
- a. The main electrician the Appellants had counted on to do the 5 Highgate job was named “Franklin” (last name unknown)—not to be confused with Michael Franklin of Brella Electric. Franklin was off on vacation at the time the job began, so the Respondents hired “Dexter” (last name unknown) instead. Dexter attended 5 Highgate on or around October 7, 2022 and began work on the electrical rough-ins, but did not complete the job due to a payment dispute. The Appellants’ attempts to reach Dexter since that date have been unsuccessful.
  - b. Michael Franklin was hired to perform the work at 5 Highgate and started that work in mid-latter part of October 2022.
  - c. Tracey Johnson and Ricks Johnson state that they did not perform electrical work at 5 Highgate, nor did CanJStyles.
  - d. The statements Tracey Johnson made in the original call in July 2022 in respect of a Notification at 5 Highgate was an error she did not realize she had made until it was

brought to her attention during a later call in October 2022. Tracey Johnson states she does not recall what she stated on the call when she made the initial erroneous permit application.

- e. The job at 5 Highgate coincided with Tracey Johnson's family moving to 77 Donn on or around July 7, 2022, and undertaking major renovations at 77 Donn. Tracey Johnson was the main person coordinating almost everything for both projects and "some things got confused including the electrical permits".
  - f. Ricks states that during Inspector Bartolini's attendance at 5 Highgate, Ricks explained to Inspector Bartolini that Tracey Johnson made an error in the permit application by stating Tracey Johnson was the owner of 5 Highgate, and assured Inspector Bartolini and Anusha Palaniappan the Notification would be cancelled. Ricks then called Tracey Johnson to let her know about the error.
  - g. Tracey Johnson explains any contravention was not done intentionally, deliberately, or in order to be manipulative. Her evidence includes that she has ongoing mental health issues and symptoms of long-haul COVID-19, including brain fog, stemming from an accident suffered in August 2021.
  - h. CanJStyles is no longer operating as a business, as of late 2022 or early 2023.
38. The Appellants deny they are liable for any of the contraventions outlined in the APOs.

### **C. Decision**

39. Based on a full review of the record in this proceeding, the Review Panel concludes the contravention in the CanJStyles APO is established on a balance of probabilities. The facts outlined in both the ESA and the Appellants' positions support a finding that electrical work being done at the 5 Highgate property.
40. As a general contractor, CanJStyles knew or ought to have known that the permit to be used for this project would have been as a licensed electrical contractor (LEC), as they were contracted by the homeowner. Although the Appellants have stated they contracted multiple "electricians" to perform this work, the ESA permit was issued with the information that CanJStyles was acting as a homeowner, which does not require it be an LEC. CanJStyles should have stated to the customer that it was hiring an LEC, and that person should have been the one to contact the ESA for permitting and inspections.
41. Further, the evidence and information provided by the Appellants in support of both "electricians" purportedly hired for this project, is not persuasive. The Review Panel expects, at a minimum, that CanJStyles would have more detailed information for these electricians that simply their first names. The last names, business names, or LEC license numbers for either "Franklin" or "Dexter" were not submitted into evidence by the appellants.
42. This leads the Review Panel to conclude, on a balance of probabilities, that CanJStyles was not following OESC Rules 2-004 and 2-036 by attempting to both perform electrical work itself, as well as subcontracting non-licensed electrical contractors to perform work under

the permit that was issued on the basis that the Appellants were the homeowner (when, in fact, they were not).

43. Based on a full review of the record in this proceeding, the Review Panel accordingly concludes the contravention in the Johnson APO is established on a balance of probabilities. The Review Panel agrees with the ESA's decision that Johnson was operating a contracting company that was performing unlicensed electrical work.
44. While electrical work was not the full scope of the CanJStyles contract, the electrical work was included in the contract agreed upon by CanJStyles and the customer. The Appellants demonstrated an understanding of the need to have electrical work inspected. However, it is the Review Panel's conclusion that, on a balance of probabilities, the Appellants attempted to circumvent the licensing process by applying for a permit as a homeowner. The evidence in support of the Appellants' purported confusion when applying for the permits for the properties in question is not persuasive, having regard to the overall evidentiary record, including the audio recordings between the parties.

## **VI. PENALTY**

### **A. The Appellants' Position**

45. The Appellants do not make any submissions specifically related to penalty, separate and apart from those referenced above. In brief, we understand the Appellants' submission to be that any contraventions that may have occurred were the result of inadvertence and genuine confusion over the state of affairs between two projects running in parallel at 5 Highgate and 77 Donn, rather than any intentional attempt to mislead, manipulate or deceive.

### **B. ESA's Position**

46. The ESA argues the AMPs for the CanStyles APO (\$3,000) and the Johnson APO (\$5,000) are justified and ought to be upheld.
47. The ESA submits the statutory purpose of the AMPs is to ensure compliance with the regulatory regime, and to prevent a person from deriving economic benefits as a result of contraventions. More generally, as a type of regulatory measure, the AMP regime is designed to achieve general deterrence and specific deterrence. On this basis, the ESA argues "it ought to be more costly to the Appellants to have an APO issued than it is to become a LEC [Licensed Electrical Contractor] and file a Notification or, at least, to subcontract the work to licensed electrical contractors." Otherwise, the ESA contends, "there would be a financial incentive to breach the *Act* and the regulations thereunder", which is not in the public interest.
48. With respect to the "Range of Administrative Penalties" table set out in the AMP Regulation, the ESA submits the Director makes a determination as to the appropriate tier (major, moderate or minor) by considering both the historical impact of such contraventions on electrical safety and by considering the amount of fine necessary to eliminate or greatly reduce the economic benefit of engaging in such a contravention. According to the ESA, considering whether a penalty would fail to deter the individual and others from continuing to engage in the contravention falls within the confines of a "potential adverse effect".

49. The ESA argues that, at the very least, the contraventions at issue here pose a moderate potential to have an adverse effect on electrical safety - both in and of themselves, and due to the potential adverse effect from failing to eliminate the potential economic gain associated with operating an electrical contracting business without being licensed.
50. Moving to the six statutory criteria under the AMP Regulation, which governs the precise AMP amount under the “moderate” range, the ESA argues as follows with respect to the Johnson APO<sup>3</sup>:
- a. *Extent of harm and degree of risk of harm to others.* There is a major potential for harm when electrical work is done without the proper license, as it can lead to electrocution, fires, and damage to persons, property of equipment. Here, the services offered including wiring, the installation of pot lights and the installation of a 200-amp electrical panel. The latter, in particular, poses a serious risk of harm to others, including the owners of 5 Highgate.
  - b. *Deliberate.* The relevant question is not whether Tracey Johnson deliberately intended to contravene the regulatory scheme, but rather whether Tracey Johnson deliberately operated an electrical contracting business without being a contractor and deliberately requested a Notification for electrical work at 5 Highgate. The evidence shows that it was. While Tracey Johnson’s evidence may be relevant to whether she deliberately intended to breach the regulatory scheme, that is not the salient question.
  - c. *Repeated, continuous or lengthy nature of contravention.* The contract between CanJStyles and the owners of 5 Highgate was entered into during July 2022. The first Notification was requested on July 13, 2022. The inspection was conducted on October 26, 2022, and Tracey Johnson called to cancel the same Notification on October 28, 2022. On this basis, Tracey Johnson was operating an electrical contracting business without the proper license for, at least, three months.
51. Turning to the CanJStyles APO, the ESA highlights the following statutory criteria<sup>4</sup> and argues as follows:
- a. *Extent of harm and degree of risk of harm to others.* When electrical work is conducted in a manner contrary to the OESC - including by failing to properly file a Notification to ensure the work is inspected - there is a Major potential harm to others, including by way of electrocution, fires and damage to persons, property and equipment. All of the work done in this case, especially the panel upgrade, poses a serious risk of harm to others, including the owners of 5 Highgate.

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<sup>3</sup> Regarding the other two statutory criteria, the ESA concedes it has no knowledge as to whether Ms. Johnson derived any economic benefit from the contravention, nor does it have any record of historical offences by Ms. Johnson.

<sup>4</sup> Regarding the other three statutory criteria, the ESA concedes it has no knowledge as to whether CanJStyles derived any economic benefit from the contravention; has no record of historical offences by CanJStyles; and that the contravention was not repeated or continuous.

- b. *Deliberate.* The ESA accepts this contravention was inadvertent or due to a lack of awareness of the relevant requirements. However, due to the fact the failure arose from being unlicensed, the ESA argues this should not lead to mitigation.
- c. *Repeated, continuous or lengthy nature of contravention.* While the ESA accepts the contravention was not repeated, the ESA notes that the work at 5 Highgate continued for approximately three months, between July and October 2022.

**C. Decision**

- 52. With respect to the \$5,000 AMP in the Johnson APO, the Review Panel varies the AMP to \$2,500. Although the contravention posed a moderate potential to have an adverse effect on electrical safety with a serious risk of harm to the property and residents of 5 Highgate, the evidence shows the duration of the contravention was in fact less than a month since the electrical work did not in fact begin before sometime in early October 2022. Ms. Palaniappan (the homeowner) and the ESA say that some renovation work began on October 3, 2022, but does not specify that this was electrical work. The Appellants contend the electrical work "... only officially began around October 7, 2022", which is supported by the text exchange with Dexter wherein the electrical work was still being quoted. Regardless of whether the October 3 or October 7 date is used, the Review Panel's conclusion on this issue would be the same.
- 53. For similar reasons, the Review Panel varies the \$3,000 AMP in the CanJStyles APO to \$1,001.

**VII. ORDER**

- 54. The Review Panel dismisses the appeal in respect of liability for the contravention set out in the Johnson APO.
- 55. The Review Panel dismisses the appeal in respect of liability for contravention set out in the CanJStyles APO.
- 56. The Review Panel allows the appeal in respect of penalty and varies the Johnson APO by reducing it to the amount of \$2,500.
- 57. The Review Panel allows the appeal in respect of penalty and varies the CanJStyles APO by reducing it to the amount of \$1,001.

Dated this 29<sup>th</sup> day of August, 2024.



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**Reena Goyal, Presiding Member  
Lee Lawrence**