

**APPEAL NUMBER: NOAA 24-06**

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:

**DANIEL ENOCH ONYEDINEFU o/a XCLUSIVE RENOVATION & DESIGN**

Appellant

- and -

**ELECTRICAL SAFETY AUTHORITY, DIRECTOR OF LICENSING**

Respondent

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**Decision of the Review Panel**

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Review Panel: Daniel Pugen

Hearing Dates: In writing

Appeal Number: NOAA 24-06

**For the Appellant**

Self-represented

**For the Respondent**

Tracey Gauley

**Independent Legal Counsel**

Dan Goudge

## **I. INTRODUCTION**

1. The Appellant brings this appeal seeking to overturn an Administrative Penalty Order (the “**APO**”) imposing three administrative penalties in the amount of \$3,000 each, pursuant to s. 113.18.1(1) of the *Electricity Act, 1998*, S.O. 1998 c. 15, Sch. A (the “**Act**”).
2. 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*.
3. The basic facts and chronology in this case are set out below.

## **II. BACKGROUND**

### **A. The Complaint**

4. On December 8, 2022, the Respondent received an anonymous online complaint, alleging that a company named Solid Crown Inc. (“**Solid Crown**”) performed electrical work, including the installation of pot lights, light switches, and power outlets, at two properties: 339 Woburn Ave., Toronto, Ontario (the “**Woburn Property**”); and 32 Haskell Ave., Ajax, Ontario (the “**Haskell Property**”, and together with the Woburn Property, the “**Properties**”).
5. The complaint alleged that the electrical work at the Woburn Property was performed between April 2022 and August 2022, and that the work at the Haskell Property had been performed between June 2022 and August 2022. The complaint further alleged that none of the electrical work performed at the Properties was inspected by ESA, nor was an ESA permit obtained for the work done at the Properties.
6. The complaint attached an invoice issued by Solid Crown for work done at the Woburn Property, dated March 23, 2022. The invoice included the installation of pot lights and two receptacles in the kitchen of the Woburn Property, however, there is a notation that this work was cancelled on June 19, 2022.

### **B. The Inspection of the Woburn Property**

7. On December 15, 2022, the Respondent received a Notification for Work, requesting an inspection of the Woburn Property. An inspection of the Woburn Property was conducted on December 16, 2022, which found two defects with the electrical work at the Woburn Property:
  - a. The new wiring was concealed or rendered inaccessible prior to inspection by the ESA and found to not conform to the Ontario Electrical Safety Code (the “**Code**”); and
  - b. The branch circuits used in a dwelling unit to supply 125 V receptacles rated 20A or less were not protected by a combination-type arc-fault circuit interrupter.

8. A Licensed Electrical Contractor was subsequently hired by Roger Magallanes Munyaco, the owner of the Woburn Property, to correct these defects at a cost of \$5,000.00.

**C. The Investigation of the Properties**

**(i) The Woburn Property**

9. The Respondent subsequently commenced an investigation into the electrical work done at the Woburn Property.
10. During that investigation, the Respondent interviewed Mr. Munyaco, who stated that he had hired Solid Crown as a general contractor to renovate the Woburn Property between March 1 and August 31, 2022. Mr. Munyaco stated that he paid Solid Crown approximately \$100,000.00 for the work it performed, and that he observed Solid Crown performing electrical work as a part of the renovation.
11. Mr. Munyaco was not asked by the Respondent if the Appellant performed any of the electrical work at the Woburn Property, nor did he identify the Appellant as performing any of the electrical work that he observed taking place during the renovation. Instead, Mr. Munyaco advised that his only point of contact was with Deryck Browne, who Mr. Munyaco understood to be the project manager from Solid Crown. Mr. Munyaco further stated that it was Mr. Browne who assured him that permits were not required to perform the electrical work at the Woburn Property.
12. As a part of the investigation, the Respondent also interviewed Mr. Browne, under caution. Mr. Browne stated that he is the owner and sole director of Solid Crown. He further advised that Solid Crown's core business is painting, framing, carpentry work and other soft renovations, but that it is not a general contractor, because it does not perform electrical work or plumbing. With respect to the work done at the Woburn Property, Mr. Browne stated that Solid Crown was engaged in painting, preparatory work, repairing stairs, and flooring. Mr. Browne added that Solid Crown did not perform any electrical work, but referred the customer to another contractor, Exquisite Contracting, to perform the electrical work, who, according to Mr. Browne, arranged for a licensed electrician to attend at the Woburn Property to see what needed to be done. However, Mr. Browne was unsure whether Mr. Munyaco ended up using that contractor or another contractor to perform the electrical work. Mr. Browne added that his contact at Exquisite was named Danny, but he could not recall his last name.
13. Mr. Browne was also asked about an invoice issued to Mr. Munyaco in relation to the renovation of the Woburn Property and dated March 23, 2022, which included amounts for the installation of receptacles in the basement and outside by the deck, pot lights and a chandelier, and moving a light switch in the bathroom. Mr. Browne stated that Solid Crown did not perform the electrical work listed on that invoice, but instead simply charged Mr. Munyaco for the electrical work performed by one of its subcontractors. Notably, the March 23, 2022 invoice issued by Solid Crown to Mr. Munyaco does not list who the subcontractor was that performed the electrical work listed on it. It also lists this electrical work as Add-ons, added to the scope of work on July 11, 2022.

14. The Respondent also interviewed the Appellant as a part of the investigation into the work done at the Woburn Property. The Appellant stated that he became involved in performing work at the Woburn Property through Mr. Browne. The Appellant advised that he performed the installation of subflooring, drywall, floor tiles, a window in the garage, a glass shower door, as well as performing some priming, and waterproofing of the foundation wall. The Appellant stated that he was paid through Solid Crown.
15. The Appellant denied doing any electrical work at the Woburn Property, though he did observe some electrical work being done at the Property by two or three other individuals who were retained by other contractors. The Appellant added that it did not obtain any permits for performing electrical work at the Woburn Property because it was not involved in performing electrical work at the Property.
16. The Appellant was then asked about an invoice provided by Mr. Browne that was issued by Solid Crown to the Appellant. It is undated and does not include an invoice number. The project is listed as "Home Renovation" and does not specify any particular address. The invoice refers to the installation of pot lights and two receptacles in the kitchen. The Appellant explained that these line items were for materials the Appellant purchased for the renovation of the Woburn Property at the request of Mr. Browne; however, the Appellant maintained that it did not perform any of the electrical work at the property. It is also notable that these line items appear to be similar to the items that are listed as cancelled on the March 23, 2022 invoice Solid Crowne issued to Mr. Munyaco.

**(ii)     *The Haskell Property***

17. After investigating the Woburn Property, the Respondent also commenced an investigation into the Haskell Property.
18. As a part of its investigation, the Respondent interviewed the daughter of the owner of the Haskell Property, Natasha De Croos. Unlike the other interviews conducted for the investigation, the interview of Ms. De Croos was not recorded. Instead, the Respondent relies on a summary of that interview prepared by its investigator.
19. According to the summary of her interview, Ms. De Croos stated that she oversaw the renovation of the basement of the Haskell Property on behalf of her parents. Ms. De Croos advised that she hired Mr. Browne and Solid Crown as the general contractor for the project, which started in July 2022 and finished in September 2022, and that she paid Solid Crown approximately \$65,000.00 for the work it performed.
20. The renovation of the basement of the Haskell Property included the running of wiring for potlights and the installation of receptacles. Ms. De Croos stated that she asked Mr. Browne whether a permit was required for the electrical work and Mr. Browne informed her that she did not need a permit for that work.
21. On September 9, 2022, Ms. De Croos received a text message from Nikki, a former employee of Solid Crown who had worked on the project in August, advising her that a licensed electrician was not used to perform the electrical work at the Haskell Property. Ms. De Croos subsequently called ESA, which confirmed that a permit was required. Ms. De Croos then

asked Solid Crown to obtain a permit and inspect the work that had already been done before moving forward with the rest of the renovation.

22. Ms. De Croos subsequently terminated her engagement with Solid Crown, and brought in another contractor to complete the work at a cost of \$88,143.95.
23. According to the summary of her interview provided by the Respondent, Ms. De Croos stated that she observed the Appellant running the wiring for the potlights and receptacles in the basement of the Haskell Property. Ms. De Croos is also recorded as stating that the Appellant connected the wiring to the panel and brought the electrical work “live” in the basement, as the contractors needed lighting and power for their tools.
24. It is unclear from the interview summary how Ms. De Croos was able to identify the Appellant as performing this work. However, Ms. De Croos also provided the Respondent with several text messages between herself and Nikki, the former Solid Crown employee, who informed Ms. De Croos that a licensed electrician was not used to perform the work at the Haskell Property. In a text message dated September 27, 2022, Nikki identifies the Appellant as the party that completed the electrical work at the Haskell Property, providing Ms. De Croos with his contact information, which Ms. De Croos subsequently conveyed to the Respondent during her interview.
25. The text messages provided by Ms. De Croos to the Respondent also include correspondence from August 31, 2022 between Ms. De Croos and a party identified as “Danny Cont...” Neither the full name of the party Ms. De Croos was text messaging with, nor their phone number was included in evidence. The August 31 text message that Ms. De Croos received states: “Plugs elevated and wire for 3way switch fished [sic]”. It is not clear from the interview summary that the Respondent provided whether Ms. De Croos was asked about this text message during her interview.
26. Ms. De Croos was the only witness the Respondent interviewed in relation to the investigation into the Haskell Property. Specifically, Mr. Browne was not interviewed about Solid Crown’s involvement in that project, nor was Solid Crown’s former employee, Nikki, interviewed about the information that she provided to Ms. De Croos.
27. The Respondent sought to interview the Appellant again regarding the Haskell Property, but the Appellant declined, stating that he did not perform any electrical work at the Haskell Property.
28. Further, it should be noted that the investigation into the Haskell Property did not obtain any invoices for any work done at that property.

#### **D. The APO**

29. On May 27, 2024, a Notice of Intent to Issue an Administrative Penalty Order was issued by the Respondent, and served on the Appellant that same day via email.
30. The Appellant provided a response to the Notice of Intent to Issue an Administrative Penalty Order on May 31, 2024, advising of its intent to appeal.

31. On June 21, 2024, the Respondent issued an Administrative Penalty Order, finding that:
  - a. Between July 1 and September 30, 2022, the Appellant failed to file with ESA a notification of work prior to performing electrical work at the Haskell Property, contrary to rule 2-004(1) of the Code;
  - b. Between March 1 and August 31, 2022, the Appellant failed to file with ESA a notification of work prior to performing electrical work at the Woburn Property, contrary to rule 2-004(1) of the Code; and
  - c. Between March 1 and September 30, 2022, the Appellant operated an electrical contracting business at the Properties without being the holder of an electrical contractor licence, contravening s. 3 of the *Licensing of Electrical Contractors and Master Electricians* regulation, O.Reg 570/05 (the “**Regulation**”).
32. For each of these violations, the Respondent imposed a \$3,000.00 fine, for a total penalty of \$9,000.00

#### **E. The Appeal**

33. On July 4, 2024, the Appellant filed a Notice of Appeal to Review Panel. The grounds for the appeal assert that the Appellant did not perform any electrical work at the Properties and “did not tell or claim to be an electrician therefore performed no electrical work.”
34. On November 19, 2024, the ESA issued a Notice of Review Panel Hearing in this matter, which provided for a written process whereby the Respondent could file its response to the Notice of Appeal by December 17, 2024, after which the Appellant could provide responding submissions by January 10, 2025, followed by any reply from the Respondent, to be delivered by January 17, 2025.
35. Following delivery of the Notice of Review Panel Hearing, neither party requested that there be an oral hearing.
36. The Respondent delivered its submission and disclosure on December 18, 2024.
37. The Appellant did not file any submissions by January 10, 2025. As a result, the Review Panel wrote to the parties on February 3, 2025, requesting that the Appellant deliver its submissions and disclosure by February 10, 2025. The Appellant subsequently provided a response to the Respondent via email on February 9, 2025.
38. The Respondent did not deliver any reply submissions.

### **III. LEGISLATIVE SCHEME**

39. With respect to liability, s. 113.2(1) of the *Act*, provides that:

Except as provided in the regulations, no person shall carry out or propose to carry out, or permit or employ another person to carry out, an activity

referred to in the regulations as requiring an authorization without first obtaining an authorization in accordance with this Part and the regulations.

40. Section 3 of the *Regulation* then states that:

No person shall operate an electrical contracting business without an electrical contractor licence issued under this Regulation.

41. The *Regulation* further defines, in s. 1, “electrical contracting business” to mean “a business that is engaged in the carrying out of electrical work,” while also defining “electrical work” to be “work within the scope of the Electrical Safety Code that consists of constructing, installing, protecting, maintaining, repairing, extending, altering, connecting or disconnecting any electrical installation or electrical equipment.”

42. Rule 2-004(1) of the Code provides that:

A contractor shall file a notification with the Electrical Safety Authority of any work on an electrical installation

- a) prior to commencement of the work whether or not electrical power or energy has been previously supplied to the land, building, or premises on which the work is performed; or
- b) within 48 h after commencement of the work where compliance with Subrule 1)a) is not practicable.

43. With respect to 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;
- (b) a restriction, limitation or condition imposed by a Director in respect of a prescribed authorization; or
- (c) a prescribed order of the Authority.

...

(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. [Emphasis added].

44. Further detail on the administrative penalty regime is set out in the *Administrative Penalties* regulations, O. Reg 12/23, 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
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#### IV. ISSUES TO BE DECIDED

45. The issues to be decided on this appeal are:

- (i) whether the ESA has proven that the Appellant contravened Rule 2-004(1) of the Code with respect to any work performed by the Appellant at the Properties, or s. 3 of the *Regulation*, on a balance of probabilities; and
- (ii) if so, whether the \$3,000.00 penalty imposed for each of the three violations identified in the Administrative Penalty Order should be confirmed, or varied to be a different amount.

46. As was recently explained in *Soheil Sobat v. Director Licensing, Electrical Safety Authority*,<sup>1</sup> in the context of another appeal from an Administrative Penalty Order, 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.

#### V. LIABILITY

##### A. The Appellant's Position

47. The Appellant denies that he conducted any electrical work at the Properties. The Appellant submits that he was retained as a subcontractor by Solid Crown, and that he performed some drywall and carpentry work at the Haskell Property and subflooring, drywall, floor tiles, a window in the garage, a glass shower door, as well as performing some priming, and waterproofing of the foundation wall at the Woburn Property.

48. As a result, the Appellant submits that he did not breach s. 3 of the *Regulation*, as he did not operate an electrical contracting business at the Properties without being the holder of an electrical contractor licence. Moreover, because he did not perform any electrical work at the Properties, the Appellant submits that he did not fail to file with ESA a notification of work prior to performing electrical work at the Properties, contrary to rule 2-004(1) of the Code.

##### B. The Respondent's Position

49. The Respondent submits that there is no evidence that the Appellant holds an electrical contractor licence, and that the Appellant is therefore prohibited from operating an electrical contracting business and from performing electrical work by s. 3 of the *Regulation*.

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<sup>1</sup> *Soheil Sobat v. Director Licensing, Electrical Safety Authority*, NOAA-23-05 at paras. 12-14.

50. The Respondent submits that the evidentiary records establishes that the Appellant performed electrical work at the Properties. Specifically, and without limitation to any other evidence (which I have considered) the Respondents submit that:
- a. the invoice issued by Solid Crown to the Appellant indicates that the Appellant performed electrical installations at the Woburn Property, and did not just purchase electrical equipment, as the Appellant suggested in his interview; and
  - b. Ms. De Croos stated in her interview that she observed the Appellant performing various electrical work at the Haskell Property, including the installation of potlights and receptacles, and connecting the wiring to the panel to bring the electrical work “live”, as the contractors needed the lighting and power for their tools to complete the renovation of the basement at the Haskell Property.

### **C. Decision**

51. I find that the Respondent has not proven on a balance of probabilities that the Appellant contravened s. 3 of the *Regulation* by performing electrical work at the Properties without being the holder of an electrical contractor licence.
52. In making this decision, I only have the written record before me. In the context of a written hearing, there is no ability to evaluate credibility or to expand upon the documentary evidence presented. While the evidence does raise a suspicion that the Appellant may well have performed electrical work and/or acted as an electrical contracting business, I am unable to find, based on the written record and on a balance of probabilities standard, that the Respondent has proven a breach of the Regulation.
53. The key question in this regard is whether the Respondent has proven that it is more likely than not that the Appellant conducted electrical work at one or both Properties. The material evidence/submissions on this point are as follows:
- a. The Appellant has denied that he performed any electrical work at the Properties.
  - b. Neither Mr. Munyaco, the owner of the Woburn Property, nor Mr. Browne, the principal of Solid Crown, identified the Appellant as performing electrical work at the Woburn Property.
  - c. Mr. Browne provided an invoice that was issued by Solid Crown to the Appellant that is undated, does not include an invoice number, and identifies the applicable project as “Home Renovation” that refers to the installation of pot lights and two receptacles. When asked about this invoice, the Appellant responded that these line items were for materials the Appellant purchased for the renovation of the Woburn Property at the request of Mr. Browne. Given that this was a written hearing, there was no ability to flesh out any further details related to this invoice.
  - d. Ms. De Croos, the daughter of the owner of the Haskell Property who was overseeing the renovation of the basement, identified the Appellant as having conducted electrical work at the Haskell Property. However, because the Respondent did not provide a recording of Ms. De Croos’ interview, it is unclear

how Ms. De Croos knew that the electrical work was being performed by the Appellant or on what dates this occurred.

- e. Ms. De Croos provided text messages between herself and a former employee at Solid Crown, Nikki, which identified the Appellant as performing electrical work at the Haskell Property. Nikki, the former Solid Crown employee, was not interviewed as a part of the investigation and no direct evidence from Nikki is before the Review Panel.
  - f. Ms. De Croos provided text messages between herself and “Danny Cont...” (without the full telephone number or last name) where Ms. De Croos was informed that electrical work had been completed at the Haskell Property. The Respondent asserts these are text messages from the Appellant.
54. With respect to the Woburn Property, there is little direct or persuasive evidence about the Appellant performing electrical work or acting as an electrical contracting business. The only evidence relates to the invoice referred to above, and I find that one invoice, which the Appellant had an explanation for and which could account for further subcontracting of the work, is not sufficient to find in favour of the Respondent.
55. With respect to the Haskell Property, the Respondent relies on text messages between Ms. De Croos and Nikki that the Appellant performed electrical work. There are two points that are immediately evident upon a review of the text messages.
- a. First, the text messages do not specifically implicate the Appellant. Rather, the messages are directed at Solid Crowne not using a licensed electrical contractor. This results in the Review Panel having to make an inference that the Appellant was performing the work as an unlicensed contractor. Further, even if it is assumed that “Danny Cont” is the Appellant, his text message to Ms. De Croos stating that “plugs elevated and wire for 3way switch fished” [sic] is not, on its own, an admission that the Appellant actually performed the work or acted as an electrical contracting business.
  - b. Second, it is immediately evident from the text messages that Nikki holds a fair amount of animosity towards Deryck Browne from Solid Crowne (i.e. “*Deryck is a con artist. He is persuasive but lied about everything. Had everyone convinced. He will lie through his teeth. Arugo is amazing but he is also like to cut a lot of corners.*”). There is no evidence as to why she holds such animosity, but what is clear is I should be careful in what inferences and conclusions I draw from such evidence, especially given that Nikki was not interviewed by the Respondent.
56. The above points, along with the inability to test credibility or to flesh out further details regarding these text messages, has caused me to not weigh these text messages as overly persuasive.
57. The Respondent also relies on the evidence of Ms. De Croos’ interview. In the summary of the interview prepared by the Respondent, Ms. De Croos is recorded as stating that she observed “*Danny running the wiring for the potlights and plugs and receptacles in the basement*” and that “*Danny connected the wiring to the panel and brought the electrical*

*work live in the basement...*” This evidence is concerning to the Review Panel and would point towards the Appellant breaching the Regulation. However, there are no details as to when she observed this and how she knew that the individual she allegedly observed was the Appellant. Also, when evaluating this evidence, I give it less weight than I otherwise would if the evidence was presented as a direct account from Ms. De Croos (i.e. an actual transcription of her interview or a sworn affidavit from her).

58. I want to emphasize that based on the evidence presented and the limitations of a written hearing I find that the Respondent has not proven its case beyond a balance of probabilities. If the evidence were presented differently, or if an oral hearing was held, the result may have been different. While the Appellant’s lack of submissions are somewhat troubling, and in particular the Appellant not providing any explanation of who, if not the Appellant, performed electrical work, the Appellant is not obliged to prove his case – the Respondent has the onus.
59. Given my finding above that there is no breach of the Regulation, I find that the Appellant has not contravened rule 2-004 of the Code by failing to file with ESA a notification of work prior to performing electrical work at one of or both the Properties.

## **VI. ORDER**

60. The Panel rescinds the APO in this matter and the penalty imposed by the Respondent.

Dated this 9<sup>th</sup> day of May, 2025.



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**Daniel Pugen**