

STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
CONTRACTORS' REGISTRATION AND LICENSING BOARD
560 JEFFERSON BOULEVARD
WARWICK, RI 02886

IN THE MATTER OF: :

ROBERT PIERSON, :
ROBERT PIERSON COMPANY, :

CRLB VIOLATION #5907

RESPONDENT :

7019 1120 0002 0142 3834 :

DECISION

Hearing Officer: Joseph Lewis

Hearing Held: June 15, 2021

I. INTRODUCTION

On or about May 10, 2021 Robert Pierson / Robert Pierson Company (“Respondent”) was issued a Notice of Violation (“NOV”) by an Inspector of the Contractors’ Registration and Licensing Board (“CRLB”). The Violations stem from a Claim investigation that occurred at 49 Maplecrest Avenue North Providence, RI 02911 on or about March 23, 2021.

The Respondent, having been properly served with the NOV, timely filed an appeal of the NOV, and a Hearing was held on June 15, 2021. The Hearing was held in accordance with R.I. Gen. Laws Chapters 42-35 and 5-65.

II. JURISDICTION

The Board has jurisdiction over this matter pursuant to R.I. Gen. Laws §§42-35-1, *et seq.*, and 5-65-1, *et seq.*

III. ISSUE

Whether the allegations against the Respondent support the issuance of a NOV and the assessment of associated fines and/or penalties, pursuant to R.I. Gen. Laws Chapter §5-65.

IV. MATERIAL FACTS AND TESTIMONY

- 1.) The CRLB was represented by Investigator Steven Antonson. After having been sworn, Investigator Antonson testified that the Violations on today's calendar stem from a Claim investigation that occurred at 49 Maplecrest Avenue North Providence, RI 02911 on or about March 23, 2021. Investigator Antonson testified that upon reviewing the Claim he searched the CRLB's Viewpoint database and was unable to retrieve any registration history on the Respondent. Investigator Antonson testified that his research clearly shows that the Respondent bid to do work or arranged work without a valid registration with the CRLB. Investigator Antonson testified that photos supplied by the Complainant revealed that there was purple primer on the finished tubs surface, and on the baseboard, heater showing work performed improperly. Additionally, Investigator Antonson testified that small pieces of wood moldings installed, and completed painting verified that improper work was performed. Investigator Antonson testified that he did not perform a site visit due to the fact that COVID-19 restrictions were in place. Investigator Antonson testified that sheetrock work was in need of corrective measures, and that no endcap had been installed on the baseboard heater. Investigator Antonson testified that there was never a closure or satisfaction of what the Complainant thought she was receiving verifying that the Respondent had failed to complete a project for construction. Investigator Antonson testified that he contacted the City of North Providence's Building Department and that no permits had been secured for the work performed by the Respondent at 49 Maplecrest Avenue North Providence, RI 02911. Investigator Antonson testified that the Respondent violated the Rhode Island One and Two Family Dwelling Code's Section 23-27.3-113.1 "When a permit is required" by failing to secure a permit prior to the commencement the work the Respondent performed. Investigator Antonson testified that the Respondent failed to have a written contract when the amount of work he performed exceeded \$1,000., violating RIGL 5-65-3(o); Failing to have a written contract when amount is in excess of one thousand dollars \$1,000.

As a result of the Investigator's observations, the Respondent was issued a Notice of Violation and assessed fines and/or penalties as follows;

- 1) RIGL 5-65-3(a); Bid to do work or arrange work without a valid registration RIGL 5-65-3(a), \$1,250.
- 2) RIGL 5-65-10(a)(12); The Registrant performed negligent and/or improper work, \$500.
- 3) RIGL 5-65-10(a)(14); The Registrant has failed to complete a project for construction, \$500.
- 4) RIGL 5-65-3(m); Failing to secure permits, \$1,964.35.
- 5) RIGL 5-65-10(a)(7); Violating state building codes, \$750.
- 6) RIGL 5-65-3(o); Failing to have a written contract when amount is in excess of one thousand dollars (\$1,000), \$500.

The Respondent was represented by Attorney, Brian D. Roman. The Respondent testified and acknowledged that he is not registered with the RICRLB. The Respondent testified none of the work performed by the Respondent revealed any safety concerns. The Respondent testified that the photos shown were taken seven months after the work was completed and that a natural settling had occurred; and that to conduct a repair is a minor corrective measure. The Respondent testified that none of the work he performed reached a level of what could be considered “improper work”. The Respondent testified that the job was completed in September and it was not until seven months later when the complaint was filed, the billed amount was collected, and the Respondent was paid in full. The Respondent testified and acknowledged that he failed to secure permits prior to the commencement of the work he performed. The Respondent testified that it was redundant and unfair to be charged with violating RIGL 5-65-10(a)(7); Violating state building codes; in addition to violating RIGL 5-65-3(m); Failing to secure permits. The Respondent testified that these violations are identical and that they are being punished twice, for the same infraction. The Respondent testified and acknowledged that he failed to have a written contract when the contract amount is in excess of one thousand dollars \$1,000.

V. EXHIBITS

The CRLB presented the following evidence;

- 1.) N/A

The Respondent presented the following evidence;

- 1.) N/A

VI. STANDARD OF REVIEW

For formal or informal administrative adjudications, the initial burdens of production and persuasion rest with the moving party. Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probable than false. When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence.

VII. FINDINGS OF FACT

After evaluating the testimony offered at Hearing, and in due consideration of the evidence presented, the undersigned Hearing Officer makes the following findings of fact:

1. On or about May 21, 2021 the Respondent timely filed for an Appeal of the NOV.
2. A hearing was held on June 15, 2021.

3. The Respondent is a Contractor who is registered, or required to be registered, with the CRLB pursuant to R.I. Gen. Law §5-65-3.
4. The facts which gave rise to the violations and associated fines and/or penalties, as listed above, are found to be supported by the testimony and evidence presented.
5. The Respondent acknowledged that he was not registered with the RICRLB.
6. The Respondent acknowledged that he failed to secure permits prior to the commencement of the work he performed.
7. The Respondent acknowledged that he failed to have a written contract when the contract amount is in excess of one thousand dollars \$1,000.

VIII. CONCLUSIONS OF LAW

Based on the foregoing finding of fact, the relevant statutes, and applicable regulations, the Hearing Officer makes the following Conclusions of Law.

1. The Board has jurisdiction over this matter pursuant to R.I. Gen. Laws §§ 42-35-1, *et seq.*, and §5-65-1, *et seq.*
2. The Violations as listed in the NOV are supported by the testimony and the evidence.
3. The Respondent has not met his burden of persuasion in order to prevail.

IX. FINAL ORDER

Based on the foregoing findings of fact and conclusions of law, the following fines against the Respondent are hereby imposed;

- 1.) RIGL 5-65-3(a); Bid to do work or arrange work without a valid registration RIGL 5-65-3(a), \$1,250.
- 2.) RIGL 5-65-10(a)(12); The Registrant performed negligent and/or improper work, \$500.
- 3.) RIGL 5-65-3(m); Failing to secure permits, \$1,964.35.
- 4.) RIGL 5-65-3(o); Failing to have written contract when amount is in excess of one thousand dollars (\$1,000), \$500.

Total fine amount \$4,214.35.

Date: June 15, 2021

Joseph Lewis
Hearing Officer

Administrative penalties are due 20 days from the execution of this decision and payment should be made to the Rhode Island Contractor's Registration and Licensing Board at the above address.

NOTICE OF APPELLATE RIGHTS

Pursuant to R.I. Gen. Laws § 5-65-20 and § 1.13.2 of the Regulation, this decision may be appealed to the full Board by requesting an appeal in writing to the Board within twenty (20) days of the date of mailing or issuance of this decision.

Any appeal shall give the specific reasons why a party believes that the findings of the hearing officer are incorrect, based on testimony or evidence received at the hearing. No new testimony or evidence will be accepted. The Board does not rehear any issues but can only accept argument as to why a wrong decision may have been reached in this case. If an appeal is filed, the parties will be notified of the date, time, and location of the Board's meeting. Either party may appear before the Board to give oral argument. Failure of either party to appear before the Board may result in an adverse decision against the party. If no appeal is filed, payment of the administrative penalties is due within 20 days as stated above.

CERTIFICATION

I hereby certify on this 15th day of June 2021 that a copy of the within Decision and Notice of Appellate Rights were sent by first class mail, postage prepaid and certified mail, return receipt requested to Robert Pierson / Robert Pierson Company PO Box 486 North Attleboro, MA 02761, Brian D. Roman, Esq. 98 Orne Street North Attleboro, MA 02760 and by electronic delivery to attorneyroman@aol.com, Donna Costantino, Associate Director, Contractors' Registration and Licensing Board, 560 Jefferson Boulevard, Suite 200, Warwick, R.I. 02886, and Matthew Lambert.

Joseph Lewis