



State of Rhode Island  
DEPARTMENT OF BUSINESS REGULATION  
*Contractors' Registration & Licensing Board*  
560 Jefferson Blvd, Suite 100  
Warwick, Rhode Island 02886  
Tel: (401) 921-1590, Fax: (401) 889-5535

<b>IN THE MATTER OF:</b>  <b>DANIEL DUVAL, DAN'S HOME IMPROVEMENT,  APPELLANT.</b>	<b>CRLB VIOLATION #5898</b>
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**CRLB DECISION AND ORDER**

**INTRODUCTION**

The Contractors' Registration and Licensing Board ("CRLB") of the Department of Business Regulation ("DBR") considered the appeal in the above-captioned matter on Wednesday, April 13, 2022, at approximately 2:00 p.m. during an open meeting of the CRLB held in person at 560 Jefferson Blvd, 1<sup>st</sup> Floor, Warwick, RI 02886. There was a quorum of the CRLB and the following members of the CRLB were present and participating: Tom Furey (Chair), Paul Brunetti, David Caldwell, Ronald Caniglia, Elise Geddes, David Grudzinski, Jose Marcano, Jacqueline Pagel and Tony Raposo.

Amy C. Stewart, Esq., was present as legal counsel to the CRLB for this appeal.

Mr. Duval appeared on behalf of himself and Dan's Home Improvement.

Ania Zielinski, Esq., appeared on behalf of DBR.

**JURISDICTION**

The Appellant filed a timely appeal of the Hearing Officer's Decision and Order pursuant to R.I. Gen. Laws § 5-65-20 and 440-RICR-10-00-1, § 1.13.2. The Hearing Officer's Decision and Order in this matter was issued on May 19, 2021, and is attached hereto as Exhibit A.

### **ISSUE**

Whether the Hearing Officer's Decision and Order should be affirmed, dismissed, modified and/or the matter remanded for further proceedings.

### **SUMMARY OF THE ARGUMENTS**

Starting with the Appellant, the parties were each given fifteen (15) minutes to present their arguments to the CRLB.

Mr. Duval asked for a new hearing. He said he felt rushed by the hearing officer at the first hearing. He was not sure if certain emails between him and the Complainant were considered by the Hearing Officer. He disputed the Board's finding that he worked without a registration because his registration expired during the beginning of the COVID-19 pandemic and he had trouble getting ahold of the CRLB staff to renew it. He stated he did not breach the contract but that the Complainant threatened him with legal action prior to letting him finish the job. He complained that the investigator did not perform an onsite inspection of the subject property.

With respect the deck being left in an unsafe condition, Mr. Duval said that the Complainant asked him to remove the deck boards and dispose of them while she had a dumpster on the property. He stated that he assumed at the time that could get pressure treated lumber to replace it, but it was unavailable and when available was much more expensive. He said he did have a permit to do the work, but the deck was not included in that permit. He stated that he intended to get another permit for the deck work, if necessary, when he had the materials to complete the job.

Attorney Zielinski advised that Mr. Duval was properly noticed by CRLB for both the original hearing and this appeal today. She said that it was made clear to him in the hearing notice that it was his burden to put on any evidence in his defense. She explained that while the investigators found violations totaling \$8,740, the Hearing Officer only sustained \$6,000 of those violations. She noted that the hearing officer did not find a violation of failure to complete the project or failure to inform the CRLB of a change of address. She stated that Mr. Duval admitted that his contract failed to contain the mechanics lien notice and a right of rescission.

As to the difficulty alleged in renewing Mr. Duval's registration in 2020, Attorney Zielinski advised that this building did not shut down during the pandemic. She said that the CRLB office was still staffed and the phone calls were returned. She asked the CRLB to affirm the Hearing Officer's Decision and Order.

Attorney Stewart noted that Mr. Duval's registration expired on March 1, 2020, two weeks prior to the Department even beginning the process for remote work due to the onset of the COVID-19 Pandemic in Rhode Island.

In response to Member Raposo, Attorney Zielinski replied that there was no in person inspection but that the CRLB inspector reviewed the photos submitted by the Complainant. She also stated that the breach of contract is based upon the negligent work, not the fact that the Complainant would not let him finish the job.

Chair Furey asked the CRLB staff to report the registration history of Mr. Duval. Jessica Murphy reported that Mr. Duval was first registered in 2009 and he had periods of lapsed registration in 2011-2012 and from 2016-2018.

### **STANDARD OF REVIEW**

Consistent with R.I. Gen. Laws § 5-65-20, 440-RICR-10-00-1.13.2 and the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, the CRLB will affirm the hearing officer's decision if it is supported by substantial evidence in the record. The CRLB will not substitute its judgment for that of the hearing officer as to the weight of the evidence on questions of fact. Alternatively, the CRLB may dismiss or modify the hearing officer's decision if it was arbitrary or capricious, or affected by other error of law. The CRLB may remand the case for further proceedings, if applicable.

### **FINDINGS OF FACT**

The entirety of the Hearing Officer's Decision and Order (Exhibit A) is hereby adopted and incorporated herein by reference.

### **CONCLUSION AND ORDER**

After reviewing the record and considering the arguments presented in this matter, the CRLB determined that the violations and penalties in paragraphs 1, 2, 3, 5, 6, and 7 in the Hearing Officer's Decision and Order under the heading IX. Final Order are supported by substantial evidence in the record:

1. RIGL 5-65-3(a); Bid to do work or arrange work without a valid registration RIGL 5-65-3(a), \$1,000.
2. RIGL 5-65-10(a)(11); The Registrant has breached a contract, \$500.
3. RIGL 5-65-10(a)(12); The Registrant performed negligent and/or improper work, \$500.
5. RIGL 5-65-3(p); Failure to provide right-of-recession, \$500.
6. RIGL 5-65-18); Failure to provide mechanics lien notice in contract, \$500.
7. RIGL 5-65-10(a)(7); Violating state building codes, \$500.

The CRLB further determined that paragraph 4 under heading IX. Final Order which states, “RIGL 5-65-3(m); Failing to secure permits, \$2,500,” is not supported by substantial evidence in the record because there is evidence that a permit was pulled for the work that was completed.

Accordingly, upon motion made by Tom Furey and duly seconded by Paul Brunetti, it was unanimously

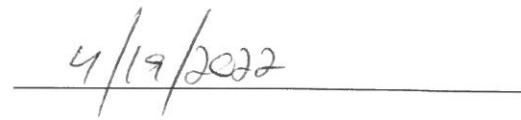
VOTED: To modify the Hearing Officer’s Decision and Order as follows:

- To Affirm the Hearing Officer’s Decision and Order as to the violations and penalties imposed under the heading IX. Final Order, paragraphs 1, 2, 3, 5, 6, and 7; and
- To Reject the Hearing Officer’s Decision and Order as to the violation and penalty imposed under the heading IX. Final Order, paragraph 4.

Total Fine Amount: \$3,500.



Thomas Furey, Chair  
Contractors’ Registration & Licensing Board  
Department of Business Regulation



Date

**NOTICE OF RIGHT TO APPEAL**

**THIS ORDER CONSTITUTES A FINAL ORDER OF THE CONTRACTORS' REGISTRATION AND LICENSING BOARD OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.**

**CERTIFICATION**

I hereby certify on this 20th day of April 2022, that a copy of the within CRLB Decision and Order was sent by email and first class mail, postage prepaid to the following:

1. Daniel Duval/ Dan's Home Improvement, 190 Furey Ave, Tiverton, RI 02878

AND BY EMAIL TO:

1. Daniel Duval, [danduval1180@gmail.com](mailto:danduval1180@gmail.com)
2. Ania Zielinski, [ania.zielinski@dbr.ri.gov](mailto:ania.zielinski@dbr.ri.gov)
3. James Cambio, [james.cambio@dbr.ri.gov](mailto:james.cambio@dbr.ri.gov)
4. Donna Costantino, [donna.costantino@dbr.ri.gov](mailto:donna.costantino@dbr.ri.gov)
5. Julietta Georgakis, [Julietta.georgakis@dbr.ri.gov](mailto:Julietta.georgakis@dbr.ri.gov)

*Diane L. Paravisini*

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

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<b>IN THE MATTER OF:</b>	:	
	:	
<b>DANIEL DUVAL,</b>	:	
<b>DAN’S HOME IMPROVEMENT</b>	:	<b>CRLB VIOLATION #5898</b>
	:	
<b>RESPONDENT</b>	:	
	:	
	:	
	:	

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**DECISION**

Hearing Officer: Joseph Lewis

Hearing Held: May 13, 2021

**I. INTRODUCTION**

On or about March 29, 2021 Daniel Duval / Duval Home Improvement (“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 43 Linda Avenue, Portsmouth, RI 02871 on or about February 24, 2021.

The Respondent, having been properly served with the NOV, timely filed an appeal of the NOV, and a Hearing was held on May 13, 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

The CRLB was represented by Investigator Steve Antonson. After having been sworn, Investigator Antonson testified that the violations we are speaking of today stem from a Claim investigation that occurred at 43 Linda Avenue, Portsmouth, RI 02871 on or about February 24, 2021. Investigator Antonson testified that the Respondent was registered on the date he signed the contract which was 2-27-2020, and that the Respondent's registration expired on 3-1-2020. Investigator Antonson testified that the Respondent did not renew his registration until 3-25-2021 which clearly shows that he bid to do work or arrange work without a valid registration with the CRLB. Investigator Antonson testified that many items on the contract were not fulfilled, and that the contract was not followed as per agreement. Additionally, the Respondent received \$2,000 and failed to deliver material. Investigator Antonson testified that he viewed photos of the deck left in an unsafe condition and that no materials had been purchased to start the deck job. Investigator Antonson testified that the Respondent failed to complete a project of construction. Investigator Antonson testified that he called the Building Official for the Town of Portsmouth who searched their database and found that no permits had been secured for the property located at 43 Linda Ave. Portsmouth RI. Investigator Antonson testified that the Respondent's contract failed to contain a right of rescission clause or a mechanics lien notice. Investigator Antonson testified and entered the contract as a full exhibit which was referred to as Exhibit #1. Investigator Antonson testified the address listed in Viewpoint for the Respondent was not accurate, but after speaking with the Respondent he was given an updated address. Investigator Antonson testified that the Rhode Island State Building Code requires permits to be secured prior to the commencement of the work performed and that the Respondent failed to call the local jurisdiction to perform any inspections. Investigator Antonson testified that a permit application is not an approval to commence work.

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), \$1,000.
- 2.) RIGL 5-65-10(a)(11); The Registrant has breached a contract, \$500.
- 3.) RIGL 5-65-10(a)(12); The Registrant performed negligent and/or improper work, \$500.
- 4.) RIGL 5-65-10(a)(14); The Registrant has failed to complete a project for construction, \$500.
- 5.) RIGL 5-65-3(m); Failing to secure permits, \$3,740.
- 6.) RIGL 5-65-3(p); Failure to provide right-of-recession, \$500.
- 7.) RIGL 5-65-18); Failure to provide mechanics lien notice in contract, \$500.
- 8.) RIGL 5-65-6; Failure to inform Board of address change RIGL 5-65-6, \$750.
- 9.) RIGL 5-65-10(a)(7); Violating state building codes, \$750.

The Respondent testified that he attempted to renew his registration online which was the only way possible and failed each time. The Respondent testified that he was finally able to register a



Viewpoint cloud account after six failed attempts. The Respondent testified that he was hoping that there was a grace period as he called the CRLB office numerous times and eventually registered on March 25<sup>th</sup>, 2021. The Respondent testified that the only item not completed was the deck. The Respondent testified that he was unable to complete the job as a result of being threatened with emails from the Complainant with litigation and did not want to access the property. The Respondent testified that the \$2,000 that he received was for previous work completed and not the deck materials. The Respondent testified that the contract for services at 43 Linda Avenue, Portsmouth, RI 02871 was signed on 2-27-2020 and he secured a building permit which cost him \$333. The Respondent testified that the permit he secured was for “shingling and windows” but did not secure a permit for the deck. NOTE: Time was given to the Respondent to call the Town of Portsmouth Building Department and it was verified that a building permit was issued for the “removal and replacement of sidewall shingles and some clapboard” at a \$333 permit fee and issued on March 24th of 2020. No permit was secured for the deck work. The permit number was 20-185 B. This property was listed as a “split property” 41-43 Linda Ave. Portsmouth RI, as the reason the permit being difficult to retrieve. The Respondent testified that he believed he did not commence work on the property until the latter part of March 2020. The Respondent acknowledged that his contract does not provide a right of rescission clause. The Respondent testified that he amended his address when he was finally able to re-register on or about 2-25-2021. The Respondent testified that the Viewpoint system would not allow him to proceed in the renewal process unless his address was updated. The Respondent testified that he did not call for inspections because he was not ready for them.

## **V. EXHIBITS**

The CRLB presented the following evidence;

- 1.) Estimate for 43 Linda Avenue with an estimated total cost of \$30,000 and an estimated completion date of May 1st, 2020.

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 April 15, 2021 the Respondent timely filed for an Appeal of the NOV.
2. A hearing was held on May 13, 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 his contract does not provide a right of rescission clause.
6. The Respondent acknowledged that his contract does not provide a mechanics lien notice.
7. Building permit was not secured from the Town of Portsmouth until 3-24-2020 and described as the “removal and replacement of sidewall shingles and some clapboards”.
8. The Respondent acknowledged that the scope of work performed, exceeded the building scope of work described on the building permit.

## 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 finding of fact and conclusions of law, the following fines against the Respondents’ Registration #33049 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), \$1,000.
- 2.) RIGL5-65-10(a)(11); The Registrant has breached a contract, \$500.
- 3.) RIGL 5-65-10(a)(12); The Registrant performed negligent and/or improper work, \$500.
- 4.) RIGL 5-65-3(m); Failing to secure permits, \$2,500.
- 5.) RIGL 5-65-3(p); Failure to provide right-of-recession, \$500.
- 6.) RIGL 5-65-18); Failure to provide mechanics lien notice in contract, \$500.

7.) RIGL 5-65-10(a)(7); Violating state building codes, \$500.

Total fine amount \$6,000.

Date: May 19, 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 19th day of May 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 Daniel Duval / Dan's Home Improvement 190 Furey Ave. Tiverton, RI 02878 and by electronic delivery to [danduval1180@gmail.com](mailto:danduval1180@gmail.com), Donna Costantino, Associate Director, Contractors' Registration and Licensing Board, 560 Jefferson Boulevard, Suite 200, Warwick, R.I. 02886, and Matthew Lambert.

*Joseph Lewis*