

Charles Dion
Dion + Daughter

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STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
CONTRACTORS' REGISTRATION AND LICENSING BOARD
560 JEFFERSON BOULEVARD, SUITE 200
WARWICK, R.I. 02886

In the Matter of: :
: :
: :
Charles Dion d/b/a Dion & Daughter : Violation No. 6951
Renovations, LLC, :
Respondent. :

:

DECISION

I. INTRODUCTION

This matter arose pursuant to a Notice of Hearing (“Notice”) issued on December 17, 2024 by the Department of Business Regulation Contractors’ Registration and Licensing Board (“Department” or “Board”) to Charles Dion d/b/a Dion & Daughter Renovations, LLC (“Respondent”). The Respondent is not registered as a contractor pursuant to R.I. Gen. Laws § 5-61-1 *et seq.*; however, the Board still has jurisdiction in disciplinary proceedings over the Respondent pursuant to R.I. Gen. Laws § 5-65-10(a)(10).¹ A hearing was scheduled for January 14, 2025 at which time the Respondent did not appear. Pursuant to R.I. Gen. Law § 5-65-6 and § 1.15.1 of 440-RICR-10-00-1 *General Rules and Regulations for Applications, Registration, Licensing, Claims, Violations, and Administrative Hearings* (“Regulation”), service may be made by first-class mail or certified mail and service is complete upon mailing when sent to the last known address of the party. The Notice was sent to the Respondent’s last known address by first class and certified mail and by email.² Since the Respondent was adequately noticed of hearing,

¹ R.I. Gen. Laws § 5-65-10(a)(10) provides in part, “[t]he board may take disciplinary action against a contractor who performed work, or arranged to perform work, while the registration was suspended, invalidated, or revoked.”
² See Department’s Exhibits One (1) (Notice of Hearing sent by first class mail, certified mail, and by email); Two (2) (certified mail card receipt showing delivery of both Notices sent certified mail).

a hearing was held before the mail undersigned on January 14, 2025.³ Additionally, § 1.17 of the Regulation⁴ provides that a default judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Board was represented by counsel who rested on the record.

II. JURISDICTION

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-14-1 *et seq.*, R.I. Gen. Laws § 5-65-1 *et seq.*, R.I. Gen. Laws § 42-35-1 *et seq.*, and 440-RICR-10-00-1 *General Rules and Regulations for Applications, Registration, Licensing, Claims, Violations, and Administrative Hearings*.

III. ISSUE

Whether the Respondent violated R.I. Gen. Laws § 5-65-10.

IV. MATERIAL FACTS

Based on the pleadings and exhibits entered at hearing, it is undisputed as follows: On or about June 5, 2023, the Respondent entered in a contract with a homeowner in North Kingstown to remove and replace two (2) separate doors. The contract was for \$5,500 and the homeowner paid approximately \$4,000 on this contract in July, 2023 to the Respondent. The Respondent was not registered as a contractor, and the work to be performed required registration as a contractor. The Respondent failed to secure permits for the work. The homeowner complained to the Department regarding this matter, and the Department investigated the matter. The Department

³ The undersigned hearing officer heard this matter pursuant to R.I. Gen. Laws § 5-65-12.

⁴ Section 1.17 of the Regulation provides as follows:

If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer or Board may enter a default judgment against the defaulting Party or take such action based on the pleadings and/or other evidence submitted by the non-defaulting Party as the forum deems appropriate. Challenge to such an order shall be made as a motion for reconsideration per § 1.15.6 of this Part.

issued the Respondent a violation, V-6951, for this matter which the Respondent appealed. The Notice and this hearing arise from the Respondent's appeal. Department's Exhibits One (1) (Notice); Four (4) (Respondent's appeal of V-6951); Five (5) (V-6951 violation issued); Six (6) (complaint with copy of contract of proof of payments); Seven (7) (complaint forwarded to Respondent); Eight (8) (email from complainant with timeline and information); Nine (9) (Board report); Ten (10) (online permit portal print out showing no permit obtained); 11 (Respondent's prior history of unregistered work); 12 (2021 final order for V-4235 for statutory violations of failing to complete work and breaching contract and negligent work, etc. along with penalties imposed); 13 (referral of V-4235 final order to State's collection unit as the Respondent did not pay any penalties); 14 (violation history for Respondent); and 15 (entity summary from secretary of state's office showing revocation).

V. DISCUSSION

A. Legislative Intent

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, "the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings." *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (citation omitted). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998).

B. Standard of Review for an Administrative Hearing

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required to prevail. *Id.* See *Lyons v. R.I. Pub. Employees Council 94*, 559 A.2d 130 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases). This means that for each element to be proven, the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

C. Relevant Statutes

R.I. Gen. Laws § 5-65-10 provides in part as follows:

(a) The board or office may revoke, suspend, or refuse to issue, reinstate, or reissue a certificate of registration if the board or office determines, after notice and opportunity for a hearing:

(1) That the registrant or applicant has violated § 5-65-3 or any other provision of this chapter or the regulations promulgated thereunder.

(10) The board or office may take disciplinary action against a contractor who performed work, or arranged to perform work, while the registration was suspended, invalidated, or revoked. Deposits received by a contractor and ordered returned are not considered a monetary award when no services or supplies have been received.

(b) Subject to providing notice and an opportunity for a hearing, in addition to all other remedies, when the board or office has reason to believe that a person has engaged in, or is engaging in, any act, practice, or transaction that violates the provisions of this chapter or the regulations promulgated thereunder, the board or office may order such person to cease and desist from the violation or request the attorney general to apply to the court for an injunction restraining the person from violating the provisions of this chapter. ***

(c) Subject to providing notice and an opportunity for a hearing:

(1) For each first violation of a particular section of this chapter or any rule or regulation promulgated by the board, a fine not to exceed five thousand dollars (\$5,000) may be imposed. Where corrective work is completed and/or if restitution is made to

the person for whom the work was to be performed, the fine assessed may be reduced as determined by the board. Fines for violations may be imposed against registered contractors, as well as those persons required to be registered, by the board.

(2) For each subsequent violation of a particular subsection of this chapter or of a rule or regulation promulgated by the board, a fine not to exceed ten thousand dollars (\$10,000) may be imposed. ***

R.I. Gen. Laws § 5-65-3 provides in part as follows:

*** Duties of contractors ***

(m) The contractor must see that permits required by the state building code are secured on behalf of the owner prior to commencing the work involved. The contractor's registration number must be affixed to the permit as required by the state building code.

D. Whether the Respondent violated R.I. Gen. Laws § 5-65-1 et seq.

It was undisputed the Respondent was not registered as a contractor in Rhode Island at the time of the contract with said homeowner, and the work for which he contracted required registration as a contractor, and that the Respondent failed to obtain the necessary permits for the work. Therefore, the Respondent violated R.I. Gen. Laws § 5-65-10(a)(10) (undertaking work without a valid registration) and R.I. Gen. Laws § 5-65-3(m) (failing to secure permit). Violations of R.I. Gen. Laws § 5-65-3(m) are violations of R.I. Gen. Laws § 5-65-10(a)(1).

E. Sanctions

The Board requested that a cease and desist order be entered against the Respondent. R.I. Gen. Laws § 5-65-10(c) provides for penalties up to \$5,000 for a first offence and up to \$10,000 for subsequent offenses. The Board requested that administrative penalties be imposed on the Respondent for his statutory violations. The Respondent did not appear and did not provide any reason not to impose penalties.

In 2021, the Respondent was issued a final order finding that the Respondent failed to complete a project, performed negligent work, breached a contract, failed to provide a mechanic's lien in the contract, failed to provide the statutory right of rescission, failed to secure permits, failed

to have a written contract for contracts worth over \$1,000, violated building codes, dishonest conduct, and repeated violations of the statute. Those are all violations of R.I. Gen. Laws § 5-65-3 and R.I. Gen. Laws § 5-65-10.⁵ An administrative penalty of \$5,070 was imposed. The Respondent did not pay the penalty so that the matter was forwarded to the State's collection unit for the collection of the penalty. *Supra*. The Respondent then entered into another contract in 2023 for work that required registration as a contractor when he was not registered as a contractor. In 2024, he applied to be registered as a contractor, but his application was denied due to his outstanding penalties. Department's Exhibit One (1) (Notice).

Penalties of \$5,000 for first offenses may be imposed with penalties of \$10,000 for subsequent offenses. Here, the Respondent has engaged in the same violations after receiving a previous final order with which he did not comply. As this is the Respondent's subsequent offense, a higher penalty is warranted due to his continuous violations of the statute.

Pursuant to R.I. Gen. Laws § 5-65-10(c), an administrative penalty of \$5,000 is imposed for Respondent's violations of R.I. Gen. Laws § 5-65-10(a)(1) and (10), and of R.I. Gen. Laws § 5-65-3(m).

Pursuant to R.I. Gen. Laws § 5-65-10(b), the Respondent is ordered to cease and desist from violating R.I. Gen. Laws § 5-65-1 *et seq.* so that he shall not engage in work that requires registration under said statute.

⁵ It is noted the homeowner's complaint stated the work performed by the Respondent was negligent, and the work was not completed. The Department did not conduct an on-site inspection so those allegations could not be confirmed and were not included in said Violation or Notice. It is noted the Respondent's contract did not include the statutorily required mechanic's lien (R.I. Gen. Laws § 5-65-3(o)). The failure to include a mechanic's lien was noted in the Notice but was not one of the alleged violations of law. Violation 6951 and the Notice alleged the Respondent violated the law because he was not registered for work that required registration and failed to secure permits.

VI. FINDINGS OF FACT

Based on the foregoing, the undersigned makes the following findings of fact:

1. The Notice was issued on December 17, 2024 by the Board to the Respondent.
2. A hearing was scheduled for January 14, 2025 at which time the Respondent did not appear. As the Respondent was adequately notified, the hearing was held with the Board resting on the record.
3. The Respondent entered into a contract on or about June 5, 2023 with a North Kingstown homeowner for work.
4. The Respondent was not registered as a contractor at the time of said contract, and said contract required the performance of work that required registration as a contractor.
5. The Respondent failed to secure a permit for the work to be performed.
6. Pursuant to § 1.17 of the Regulation, the Respondent is declared to be in default for failing to appear at the hearing.
7. The facts contained in Sections I, IV, and V are incorporated by reference herein.

VII. CONCLUSIONS OF LAW

Pursuant to R.I. Gen. Laws § 5-65-10(b), the Respondent is ordered to cease and desist from violating R.I. Gen. Laws § 5-65-1 *et seq.* so that he shall not engage in work that requires registration under said statute.

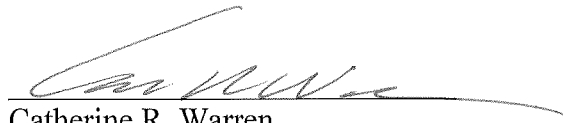
Pursuant to R.I. Gen. Laws § 5-65-10(a)(c), an administrative penalty of \$5,000 is imposed on the Respondent for his violations of R.I. Gen. Laws § 5-65-3(a) and R.I. Gen. Laws § 5-65-10(a)(1) and (10).

Further, the Respondent cannot obtain registration as a contractor without complying with this decision and any other outstanding matters. The choice of whether to grant such an application is within the discretion of the Department.

The administrative penalty is due 20 days from the execution of this decision.⁶

Issued by R.I. Contractors' Registration and Licensing Board.

Entered: January 30, 2025


Catherine R. Warren
Hearing Officer

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 Contractors' Registration and Licensing 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.

⁶ Payment should be made to Contractors' Registration and Licensing Board at 560 Jefferson Boulevard, Warwick, R.I. 02886.

CERTIFICATION

I hereby certify on this 30th day of January, 2025 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:

Mr. Charles Dion
90 Cooper Lane
East Greenwich, R.I. 02818

Dion & Daughter Renovations, LLC
Attn: Tamie L. Samways, Reg. Agent
90 Cooper Lane
East Greenwich, R.I. 02818

and by electronic delivery to:

diondaughterrenovations@gmail.com (Respondent)
dionchuck5@gmail.com (Respondent)
James Cambio, Building Code Commissioner (james.cambio@dbr.ri.gov)
Donna Costantino, Associate Director (donna.constantino@dbr.ri.gov)
Matthew Lambert, Principal State Building Code Officer (matthew.lambert@dbr.ri.gov)
Christina Santos, Administrator Management (christina.santos@dbr.ri.gov)
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Theresa L. Kaplan