

Before the Building Practitioners Board

	BPB Complaint No. C2-01836
Licensed Building Practitioner:	Giles Bayley (the Respondent)
Licence Number:	BP 119121
Licence(s) Held:	Carpentry

Decision of the Board in Respect of the Conduct of a Licensed Building Practitioner

Under section 315 of the Building Act 2004

Complaint or Board Inquiry	Complaint
Hearing Location	Hamilton
Hearing Type:	In Person
Hearing Date:	26 September 2018
Decision Date:	30 October 2018
Board Members Present:	
	Chris Preston (Presiding)
	Mel Orange, Legal Member
	Robin Dunlop, Retired Professional Engineer
	Bob Monteith, LBP Carpentry and Site AOP 2

Procedure:

The matter was considered by the Building Practitioners Board (the Board) under the provisions of Part 4 of the Building Act 2004 (the Act), the Building Practitioners (Complaints and Disciplinary Procedures) Regulations 2008 (the Complaints Regulations) and the Board's Complaints and Inquiry Procedures.

Board Decision:

The Respondent **has** committed a disciplinary offence under section 317(1)(i) of the Act.

The Respondent **has not** committed disciplinary offences under section 317(1)(b) or (d) of the Act.

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Introduction

[1] The hearing resulted from a Complaint into the conduct of the Respondent and a Board resolution under regulation 10 of the Complaints Regulations¹ to hold a hearing in relation to building work at [Omitted]. The alleged disciplinary offences the Board resolved to investigate were that the Respondent:

- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act);
- (b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act);
- (c) conducted himself or herself in a manner that brings, or is likely to bring, the regime under this Act for licensed building practitioners into disrepute (s 317(1)(i) of the Act).

Function of Disciplinary Action

[2] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were recently reiterated by

¹ The resolution was made following the Board’s consideration of a report prepared by the Registrar in accordance with the Complaints Regulations.

the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*² and in New Zealand in *Dentice v Valuers Registration Board*³.

- [3] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board*⁴ Collins J. noted that:

“... the disciplinary process does not exist to appease those who are dissatisfied The disciplinary process ... exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community.”

- [4] The Board can only inquire into “the conduct of a licensed building practitioner” with respect to the grounds for discipline set out in section 317 of the Act. It does not have any jurisdiction over contractual matters.

Evidence

- [5] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed⁵. Under section 322 of the Act the Board has relaxed rules of evidence which allow it to receive evidence that may not be admissible in a court of law.

- [6] The procedure the Board uses is inquisitorial, not adversarial. The Board examines the documentary evidence available to it prior to the hearing. The hearing is an opportunity for the Board, as the inquirer and decision maker, to call and question witnesses to further investigate aspects of the evidence and to take further evidence from key witnesses. The hearing is not a review of all of the available evidence.

- [7] In addition to the documentary evidence, the Board also heard evidence at the hearing from:

Giles Bayley	Respondent
[Omitted]	Complainant
[Omitted]	Witness, Report Writer
[Omitted]	Witness, Builder

- [8] The Respondent was engaged by the Complainant to construct a new residential dwelling. Both were known to each other by way of long-term family associations. The intent of the Respondent and Complainant was for the Respondent to be engaged on a charge up labour and materials basis. The Complainant would arrange various trades and sub-contractors himself and would carry out and/or project manage certain aspects of the build. The arrangement was not recorded in writing.

² *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.

³ [1992] 1 NZLR 720 at p 724

⁴ [2016] HZHC 2276 at para 164

⁵ *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

- [9] The Complainant was not able to obtain bank finance for the build without a fixed price contract. The Respondent agreed to provide a fixed price contract to facilitate finance. A comprehensive Residential Building Contract was prepared by the Respondent. It was executed by him on 3 November 2016 and subsequently by the Complainant and his wife on 10 November 2016. The signed contract was presented to the Complainant's bank. Finance was secured and the project proceeded but not on the basis of the terms and conditions set out in the signed contract.
- [10] The Respondent accepted that he should not have provided a contract that did not reflect the actual contractual arrangements.
- [11] Issues arose during the build. [Omitted] carried out an inspection of the building work on 7 May 2018 and completed a report detailing 29 defect items. [Omitted] was engaged by the Complainant to review the building work and [Omitted]'s report and provide his opinion on the 29 reported defects.
- [12] At the hearing the Board reviewed each of the items listed and as set out in the [Omitted] report.
- [13] Items 1 and 3 of the defects table related to foundations. At the hearing the Respondent gave evidence that he subcontracted the construction of the foundations to [Omitted] who was a licensed building practitioner with a Carpentry and Site AOP 1 Licence ([Omitted]). Each licensed building practitioner is responsible for their own work.
- [14] Item 4 was building work that was completed by the roofer, [Omitted], who is licensed in Roofing, Roof Membrane and Profiled Metal Roof and/or Wall Cladding, ([Omitted]).
- [15] As regards the other items, additional evidence was heard as regards who completed the building work and the implications of the defects. The Respondent accepted that he supervised the building work except that:
- (a) he did not supervise the building work relating to the garage in item 12 as he did not consider it to be restricted building work as the garage was separate from the dwelling house; and
 - (b) the portal frames in item 28 were manufactured and installed by the Complainant.
- [16] The Respondent accepted that there were workmanship issues with some of the building work that had been completed. Specifically toward the end of the build, when the contractual relationship had deteriorated and there were payment issues, he instructed his workers to get finishing work done as quickly as possible. As a result less care and attention was taken than would normally be the case. The Respondent also maintained that many items complained about were incomplete or that they would have formed part of a snag list.

Board's Conclusion and Reasoning

[17] The Board has decided that the Respondent **has** conducted himself in a manner that brings, or is likely to bring, the regime under this Act for licensed building practitioners into disrepute (s 317(1)(i) of the Act) and should be disciplined.

[18] The Board has decided that the Respondent **has not**:

- (a) carried out or supervised building work or building inspection work in a negligent or incompetent manner (s 317(1)(b) of the Act); or
- (b) carried out or supervised building work or building inspection work that does not comply with a building consent (s 317(1)(d) of the Act).

Negligence and/or Incompetence

[19] Negligence and incompetence are not the same. In *Beattie v Far North Council*⁶ Judge McElrea noted:

[43] Section 317 of the Act uses the phrase "in a negligent or incompetent manner", so it is clear that those adjectives cannot be treated as synonymous.

[20] Negligence is the departure by a licensed building practitioner, whilst carrying out or supervising building work, from an accepted standard of conduct. It is judged against those of the same class of licence as the person whose conduct is being inquired into. This is described as the *Bolam*⁷ test of negligence which has been adopted by the New Zealand Courts⁸.

[21] Incompetence is a lack of ability, skill or knowledge to carry out or supervise building work to an acceptable standard. *Beattie* put it as "*a demonstrated lack of the reasonably expected ability or skill level*". In *Ali v Kumar and Others*⁹ it was stated as "*an inability to do the job*".

[22] The New Zealand Courts have stated that assessment of negligence and/or incompetence in a disciplinary context is a two-stage test¹⁰. The first is for the Board to consider whether the practitioner has departed from the acceptable standard of conduct of a professional. The second is to consider whether the departure is significant enough to warrant a disciplinary sanction.

[23] When considering what an acceptable standard is the Board must have reference to the conduct of other competent and responsible practitioners and the Board's own assessment of what is appropriate conduct, bearing in mind the purpose of the Act¹¹. The test is an objective one and in this respect it has been noted that the purpose of

⁶ Judge McElrea, DC Whangarei, CIV-2011-088-313

⁷ *Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582

⁸ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

⁹ *Ali v Kumar and Others* [2017] NZDC 23582 at [30]

¹⁰ *Martin v Director of Proceedings* [2010] NZAR 333 (HC), *F v Medical Practitioners Disciplinary Tribunal* [2005] 3 NZLR 774 (CA)

¹¹ *Martin v Director of Proceedings* [2010] NZAR 333 at p.33

discipline is the protection of the public by the maintenance of professional standards and that this could not be met if, in every case, the Board was required to take into account subjective considerations relating to the practitioner¹².

[24] The Board notes that the purposes of the Act are:

3 Purposes

This Act has the following purposes:

- (a) *to provide for the regulation of building work, the establishment of a licensing regime for building practitioners, and the setting of performance standards for buildings to ensure that—*
 - (i) *people who use buildings can do so safely and without endangering their health; and*
 - (ii) *buildings have attributes that contribute appropriately to the health, physical independence, and well-being of the people who use them; and*
 - (iii) *people who use a building can escape from the building if it is on fire; and*
 - (iv) *buildings are designed, constructed, and able to be used in ways that promote sustainable development:*
- (b) *to promote the accountability of owners, designers, builders, and building consent authorities who have responsibilities for ensuring that building work complies with the building code.*

[25] The Board also notes, as regards acceptable standards, that all building work must comply with the Building Code¹³ and be carried out in accordance with a building consent¹⁴. As such, when considering what is and is not an acceptable standard, the Building Code and any building consent issued must be taken into account.

[26] There was evidence before the Board of building work that had been carried out in an unacceptable manner. The question for the Board was whether the contraventions were serious enough to warrant a discipline outcome. In *Collie v Nursing Council of New Zealand*¹⁵ the Court's noted, as regards the threshold for disciplinary matters, that:

[21] Negligence or malpractice may or may not be sufficient to constitute professional misconduct and the guide must be standards applicable by competent, ethical and responsible practitioners and there must be behaviour which falls seriously short of that which is to be considered acceptable and not mere inadvertent error, oversight or for that matter carelessness.

¹² *McKenzie v Medical Practitioners Disciplinary Tribunal* [2004] NZAR 47 at p.71

¹³ Section 17 of the Building Act 2004

¹⁴ Section 40(1) of the Building Act 2004

¹⁵ [2001] NZAR 74

[27] In *Pillai v Messiter (No 2)*¹⁶ the Court of Appeal stated:

... the statutory test is not met by mere professional incompetence or by deficiencies in the practice of the profession. Something more is required. It includes a deliberate departure from accepted standards or such serious negligence as, although not deliberate, to portray indifference and an abuse.

[28] In this instance the Board has decided that whilst the Respondent did depart from what the Board considers to be an accepted standard of conduct, the conduct was not sufficiently serious enough to warrant a disciplinary outcome.

[29] It should be noted that had the Respondent been the licensed building practitioner that carried out or supervised the foundations then the outcome may well have been different. As he was not and each licensed building practitioner is responsible for his or her own work he cannot be disciplined for it.

Contrary to a Building Consent

[30] Under section 40 of the Act all building work must be carried out in accordance with the building consent issued. This ensures that there is independent verification that the Building Code has been complied with and the building work will meet any required performance criteria. A failure to adhere to a building consent is also an offence under section 40.

[31] The Board did not hear sufficient evidence to show that the building work that the Respondent carried out or supervised was not in accordance with the building consent.

Disrepute

[32] The disrepute disciplinary provision in the Act is similar to legislation in other occupations including medical professionals, teachers, lawyers and conveyancers, chartered accountants, financial advisors, veterinarians and real estate agents. The Board considered the disrepute provisions in Board Decision C2-01111¹⁷ and discussed the legal principles that apply.

[33] The Board, in C2-01111 considered whether the conduct complained of needs to be conduct carried out in the capacity of a licensed building practitioner. The Board notes that in the professions listed above there is no requirement for the conduct to have been in the course of carrying out that person's trade or profession. For example in the High Court held in *Davidson v Auckland Standards Committee No 3*¹⁸ a company director, who, in the course of his duties as a director was charged with offences under the Securities Act 1978, had brought the legal profession into disrepute. He held a lawyer's practising certificate at the time, however, he was not providing legal services. It was submitted in the case that when the acts are outside of the legal practice, only acts which exhibit a quality incompatible with the duties of

¹⁶ (1989) 16 NSWLR 197 (CA) at 200

¹⁷ Board decision dated 2 July 2015.

¹⁸ [2013] NZAR 1519

the legal profession, for example dishonesty or lack of integrity, could bring the legal profession into disrepute. This was rejected by the Court.

[34] Similarly in a determination of the Disciplinary Tribunal of the New Zealand Institute of Chartered Accountants¹⁹, convictions for indecent assault and being found without reasonable cause in a building was found to bring the profession into disrepute as it was inconsistent with the required judgment, character and integrity.

[35] Turning to the conduct which brings or is likely to bring the regime into disrepute the Act does not provide guidance as to what is "disrepute". The Oxford Dictionary defines disrepute as "the state of being held in low esteem by the public"²⁰ and the courts have consistency applied an objective test when considering such conduct. In *W v Auckland Standards Committee 3 of the New Zealand Law Society*²¹ the Court of Appeal held that:

*the issue of whether conduct was of such a degree that it tended to bring the profession into disrepute must be determined objectively, taking into account the context in which the relevant conduct occurred. The subjective views of the practitioner, or other parties involved, were irrelevant.*²²

[36] As to what conduct will or will not be considered to bring the regime into disrepute it will be for the Board to determine on the facts of each case. The Board will, however, be guided by finding in other occupational regimes. In this respect it is noted disrepute was upheld in circumstances involving:

- criminal convictions²³;
- honest mistakes without deliberate wrongdoing²⁴;
- provision of false undertakings²⁵; and
- conduct resulting in an unethical financial gain²⁶.

[37] It is also noted that there are a number of cases where the conduct related to specific or important tasks a licensed building practitioner is required to complete within their occupations. Often such behaviour is measured within the context of a code of conduct or ethics. A code is yet to be established within the Building Act although provision for one is made. What is clear from the cases though is that unethical or unprofessional conduct can amount to disreputable conduct.

[38] Turning to consider the conduct in question the Respondent participated in an arrangement to mislead a financial institution for the purpose of obtaining finance. Such conduct could be viewed as the Respondent being a party to using a document

¹⁹ 24 September 2014

²⁰ Online edition, compilation of latest editions of *Oxford Dictionary of English, New Oxford American Dictionary, Oxford Thesaurus of English and Oxford American Writer's Thesaurus*, search settings UK English, accessed 12/05/15

²¹ [2012] NZCA 401

²² [2012] NZAR 1071 page 1072

²³ *Davidson v Auckland Standards Committee No 3* [2013] NZAR 1519

²⁴ *W v Auckland Standards Committee 3 of the New Zealand Law Society* [2012] NZCA 401

²⁵ *Slack, Re* [2012] NZLCDT 40

²⁶ *Colliev Nursing Council of New Zealand* [2000] NZAR 7

for the purposes of obtaining a pecuniary advantage, which is a crime. At the least it was unethical behaviour.

- [39] The Board also noted that with the introduction of the Part 4A of the Act – Consumer Rights and Remedies in Relation to Residential Building Work – there has been a greater emphasis on ensuring that contractual documentation is provided and that the documentation meets certain minimum requirements. This shows the elevated importance that has been placed on contracts by Parliament. The contract provided to obtain finance most likely meet those requirements. It was a sham. No contract was put in place for the actual arrangements which defeated the purposes of part 4A of the Act (in that there was no actual contract in place).
- [40] As with negligence and incompetence the Courts have stated that the threshold for disciplinary complaints of disrepute is high and the Board notes that when the disciplinary provision was introduced to Parliament the accompanying Cabinet paper noted:
- This power would only be exercised in the most serious of cases of poor behaviour, such as repetitive or fraudulent behaviour, rather than for minor matters.*

- [41] The present matter is not minor. It is serious and it is conduct that was fraudulent in that the intention was to deceive with the intent of obtaining a benefit. It is not conduct that should be countenanced. A clear message needs to be sent that it is not acceptable. The Board accordingly finds that the Respondent has brought the regime into disrepute.

Penalty, Costs and Publication

- [42] Having found that one or more of the grounds in section 317 applies the Board must, under section 318 of the Actⁱ, consider the appropriate disciplinary penalty, whether the Respondent should be ordered to pay any costs and whether the decision should be published.
- [43] The Board heard evidence during the hearing relevant to penalty, costs and publication and has decided to make indicative orders and give the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.

Penalty

- [44] The purpose of professional discipline is to uphold the integrity of the profession; the focus is not punishment, but the enforcement of a high standard of propriety and professional conduct. The Board does note, however, that the High Court in *Patel v Complaints Assessment Committee*²⁷ commented on the role of "punishment" in giving penalty orders stating that punitive orders are, at times, necessary to provide a deterrent and to uphold professional standards. The Court noted:

²⁷ HC Auckland CIV-2007-404-1818, 13 August 2007 at p 27

[28] I therefore propose to proceed on the basis that, although the protection of the public is a very important consideration, nevertheless the issues of punishment and deterrence must also be taken into account in selecting the appropriate penalty to be imposed.

- [45] The Board also notes that in *Lochhead v Ministry of Business Innovation and Employment*²⁸ the court noted that whilst the statutory principles of sentencing set out in the Sentencing Act 2002 do not apply to the Building Act they have the advantage of simplicity and transparency. The court recommended adopting a starting point for penalty based on the seriousness of the disciplinary offending prior to considering any aggravating and/or mitigating factors.
- [46] The Board, on the basis of the gravity of the charge and conduct, considered suspension of the Respondent's licence as an appropriate penalty. It noted, however, that the Respondent may not have been aware of the seriousness of his actions when he provided the misleading contract and that he was, at the time, attempting to assist a family friend. On this basis the Board decided that a fine will be sufficient.
- [47] Based on the above the Board's penalty decision is that the Respondent pay a fine of \$4,500. The amount of the fine reflects the seriousness of the conduct.

Costs

- [48] Under section 318(4) the Board may require the Respondent "to pay the costs and expenses of, and incidental to, the inquiry by the Board."
- [49] The Respondent should note that the High Court has held that 50% of total reasonable costs should be taken as a starting point in disciplinary proceedings and that the percentage can then be adjusted up or down having regard to the particular circumstances of each case²⁹.
- [50] In *Collie v Nursing Council of New Zealand*³⁰ where the order for costs in the tribunal was 50% of actual costs and expenses the High Court noted that:
- But for an order for costs made against a practitioner, the profession is left to carry the financial burden of the disciplinary proceedings, and as a matter of policy that is not appropriate.*
- [51] Based on the above the Board's costs order is that the Respondent is to pay the sum of \$1,500 toward the costs of and incidental to the Board's inquiry.

Publication

- [52] As a consequence of its decision the Respondent's name and the disciplinary outcomes will be recorded in the public register maintained as part of the Licensed

²⁸ 3 November 2016, CIV-2016-070-000492, [2016] NZDC 21288

²⁹ *Cooray v The Preliminary Proceedings Committee* HC, Wellington, AP23/94, 14 September 1995, *Macdonald v Professional Conduct Committee*, HC, Auckland, CIV 2009-404-1516, 10 July 2009, *Owen v Wynyard* HC, Auckland, CIV-2009-404-005245, 25 February 2010.

³⁰ [2001] NZAR 74

Building Practitioners' scheme as is required by the Act³¹. The Board is also able, under section 318(5) of the Act, to order publication over and above the public register:

In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit.

- [53] As a general principle such further public notification may be required where the Board perceives a need for the public and/or the profession to know of the findings of a disciplinary hearing. This is in addition to the Respondent being named in this decision.
- [54] Within New Zealand there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990³². The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction³³. Within the disciplinary hearing jurisdiction the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive³⁴. The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*³⁵.
- [55] The courts have also stated that an adverse finding in a disciplinary case usually requires that the name of the practitioner be published in the public interest³⁶. It is, however, common practice in disciplinary proceedings to protect the names of other persons involved as naming them does not assist the public interest.
- [56] Based on the above the Board will not order further publication.
- [57] It will, however, ensure that an article is published which discusses the issues and informs other licensed building practitioners of the consequences of engaging in fraudulent conduct.

Section 318 Order

[58] For the reasons set out above, the Board directs that:

- Penalty:** Pursuant to section 318(1)(f) of the Building Act 2004, the Respondent is ordered to pay a fine of \$4,500.
- Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$1,500 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

³¹ Refer sections 298, 299 and 301 of the Act

³² Section 14 of the Act

³³ Refer sections 200 and 202 of the Criminal Procedure Act

³⁴ *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350

³⁵ *ibid*

³⁶ *Kewene v Professional Conduct Committee of the Dental Council* [2013] NZAR 1055

Publication: The Registrar shall record the Board's action in the Register of Licensed Building Practitioners in accordance with section 301(1)(iii) of the Act.

In terms of section 318(5) of the Act, there will not be action taken to publicly notify the Board's action, except for the note in the Register and the Respondent being named in this decision.

[59] The Respondent should note that the Board may, under section 319 of the Act, suspend or cancel a licensed building practitioner's licence if fines or costs imposed as a result of disciplinary action are not paid.

Submissions on Penalty, Costs and Publication

[60] The Board invites the Respondent to make written submissions on the matters of disciplinary penalty, costs and publication up until close of business on **20 November 2018**. The submissions should focus on mitigating matters as they relate to the penalty, costs and publication orders. If no submissions are received then this decision will become final. If submissions are received then the Board will meet and consider those submissions prior to coming to a final decision on penalty, costs and publication.

[61] In calling for submissions on penalty, costs and mitigation the Board is not inviting the Respondent to offer new evidence or to express an opinion on the findings set out in this decision. If the Respondent disagrees with the Board's findings of fact and and/or its decision that the Respondent has committed a disciplinary offence the Respondent can appeal the Board's decision.

Right of Appeal

[62] The right to appeal Board decisions is provided for in section 330(2) of the Actⁱⁱ.

Signed and dated this 30th day of October 2018


Chris Preston
Presiding Member

ⁱ **Section 318 of the Act**

- (1) *In any case to which section 317 applies, the Board may*
- (a) *do both of the following things:*
- (i) *cancel the person's licensing, and direct the Registrar to remove the person's name from the register; and*

-
- (ii) *order that the person may not apply to be relicensed before the expiry of a specified period:*
 - (b) *suspend the person's licensing for a period of no more than 12 months or until the person meets specified conditions relating to the licensing (but, in any case, not for a period of more than 12 months) and direct the Registrar to record the suspension in the register:*
 - (c) *restrict the type of building work or building inspection work that the person may carry out or supervise under the person's licensing class or classes and direct the Registrar to record the restriction in the register:*
 - (d) *order that the person be censured:*
 - (e) *order that the person undertake training specified in the order:*
 - (f) *order that the person pay a fine not exceeding \$10,000.*
 - (2) *The Board may take only one type of action in subsection 1(a) to (d) in relation to a case, except that it may impose a fine under subsection (1)(f) in addition to taking the action under subsection (1)(b) or (d).*
 - (3) *No fine may be imposed under subsection (1)(f) in relation to an act or omission that constitutes an offence for which the person has been convicted by a court.*
 - (4) *In any case to which section 317 applies, the Board may order that the person must pay the costs and expenses of, and incidental to, the inquiry by the Board.*
 - (5) *In addition to requiring the Registrar to notify in the register an action taken by the Board under this section, the Board may publicly notify the action in any other way it thinks fit."*

ii Section 330 Right of appeal

- (2) *A person may appeal to a District Court against any decision of the Board—*
 - (b) *to take any action referred to in section 318.*

Section 331 Time in which appeal must be brought

An appeal must be lodged—

- (a) *within 20 working days after notice of the decision or action is communicated to the appellant; or*
- (b) *within any further time that the appeal authority allows on application made before or after the period expires.*