

BPB Appeal No. A1282

IN THE MATTER OF

the Building Act 2004 (the Act)

AND

IN THE MATTER OF

an Appeal to the Building Practitioners Board under Section 330(1)(a) by **[the Appellant]** against a decision of the Registrar

DECISION OF THE BUILDING PRACTITIONERS BOARD

Date and location of hearing:	20 April 2017
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Appeal heard by:	Robin Dunlop (presiding) Catherine Taylor Bob Monteith
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Appearances by:	[the Appellant]
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1.0 Introduction

- 1.1 [The Appellant] of [omitted] applied for a Carpentry Licence under s287 of the Act and the Licensed Building Practitioners Rules 2007¹ (“the Rules”).
- 1.2 The Registrar of Licensed Building Practitioners (“the Registrar”) declined the Appellant’s application and notified his decision by letter dated 11 January 2017. Notification of the decision included a notice of the right to appeal the decision to the Building Practitioners Board (“the Board”).
- 1.3 On 15 February 2017 the Appellant lodged an appeal to the Board against the Registrar’s decision.

2.0 Licensing scheme

- 2.1 To become licensed, a person must satisfy the Registrar that they can meet all the applicable minimum standards for licensing.² The minimum standards are set out as “Competencies” in Schedule 1 of the Rules. In determining whether a person meets a Competency, regard must be given to the extent to which the person meets the Performance Indicators set out for that competency in Schedule1³.
- 2.2 Where the Registrar declines an application the applicant has a right of appeal to the Board.⁴

3.0 Scope of the appeal

- 3.1 An appeal proceeds by way of rehearing⁵. However, the Board will not review matters outside the scope of the appeal⁶.
- 3.2 The appeal seeks the following relief:

The grant of a Carpentry Licence (Competencies 1, 2, 3, and 4)

- 3.3 In light of s335(4) and the Registrar’s decision letter, the Board interprets its inquiry as being restricted to consideration of Competencies 2 and 4 for a Carpentry Licence.

Carpentry Licence Competencies:

Competency 1: Demonstrate knowledge of the regulatory environment of the building construction industry

Competency 2: Demonstrate knowledge of current building and trade practice

Competency 3: Carry out planning and scheduling for carpentry work

Competency 4: Carry out carpentry work.

¹Incorporating amendments for 2008, 2009 and 2010.

²S286 of the Act and rule 4 of the Rules.

³Clause 4(2) of the Rules

⁴S330(1)(a) of the Act.

⁵S335(2) of the Act

⁶S335(4) of the Act

4.0 Registrar's report

4.1 The Registrar's decision to grant or decline a licence is informed by an assessor's recommendation⁷. The Board's Appeals Procedures require the Registrar to provide a report which includes all evidence used to reach the decision, including the assessors' recommendation.

4.2 The Registrar's report notes, at paragraph 18, the following from the Assessor's recommendations:

- The Appellant was not supported by witnesses. Both witnesses were Carpentry LBPs who stated that his carpentry skills were poor and his knowledge of current trade practice was limited.
- The Appellant did not have the knowledge that would be expected of a licensed building practitioner. The referees also noted that the Appellant "had a reluctance to adhere to the good trade practices".

4.3 The Registrar concluded:

"The basis for the Registrar's decision to decline the application

- *I have been delegated under S312 (1) to review the assessment report and make a decision about the Appellant's application.*
- *I reviewed the assessor's report and the Appellant's application.*
- *I based my decision on the assessor's recommendation, and the reasons set out above. I did not consider that there was sufficient reason or concern to overrule the assessor's recommendation."*

5.0 Appellant's Submissions

5.1 The Appellant included a letter and his assessment report with his appeal form.

5.2 The Board asked questions of the Appellant.

6.0 Board's consideration

6.1 The Board noted that the Registrar was satisfied that the Appellant met the following Competencies 1 and 3 for the Carpentry licence:

Licence Competencies:

Competency 1: Demonstrate knowledge of the regulatory environment of the building construction industry.

Competency 3: Carry out planning and scheduling for carpentry work.

⁷ clause 10 and 11 of the Rules

- 6.2 The Board then considered Competencies 2 and 4 for a Carpentry Licence. These Competencies can be demonstrated by meeting some or all of the performance indicators as listed in Schedule 1 of the Rules.
- 6.3 The LBP scheme is competency based, and it is up to the practitioner to demonstrate their competency.

Board's findings

- 6.4 The Appellant demonstrated a limited understanding of building procedures, and lacked a greater depth of technical knowledge with regard to Restricted Building Work.
- 6.5 The recent work undertaken by the Appellant did not demonstrate to the Board broad industry experience.
- 6.6 Further experience and demonstration that he has successfully completed some more projects under mentoring of suitably licensed building practitioners may assist a future re-application.
- 6.7 The Board concluded that the Appellant **failed to provide** evidence to demonstrate that he met sufficient Performance Indicators to satisfy the requirements of Competencies 2 and 4 for a Carpentry Licence.

7.0 Board's Decision

- 7.1 Pursuant to s335(3) of the Act, the Board has resolved to uphold the Registrar's decision not to license [Omitted] with a Carpentry Licence.

8.0 Publication of Name

- 8.1 Pursuant to s339 of the Act, the Board may prohibit the publication of the Appellant's name and/or particulars.
- 8.2 The Board, having considered the circumstances of this appeal, directs that the name and the particulars of the Appellant **are not** to be made public.

Signed and dated this 1 day of May 2017



Robin Dunlop (Presiding Member)

Advice Note (not part of Board's Decision)

Extracts from the Act:

"330 Right of Appeal

- (1) *A person may appeal to the Board against any decision of the Registrar to—*
- (a) *decline to licence the person as a building practitioner;*
 - ...
- (2) *A person may appeal to a District Court against any decision of the Board—*
- (a) *made by it on an appeal brought under subsection (1);*
 - ...

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.”*