

BPB Appeal No. A1351

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 **[Omitted]** against a decision of the Registrar

DECISION OF THE BUILDING PRACTITIONERS BOARD

Date and location of hearing:	2 February 2021 at Auckland
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Appeal heard by:	Mr C Preston (Presiding) Mr D Fabish, LBP, Carpentry and Site AOP 2 Dr R Dunlop, Retired Professional Engineer Mr R Monteith, LBP Carpentry and Site AOP 2
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Appearances by:	[Omitted] [Omitted] (witness)
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1.0 Introduction

- 1.1 [Omitted] (“the Appellant”) of Auckland 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 21 September 2020. Notification of the decision included a notice of the right to appeal the decision to the Building Practitioners Board (“the Board”).
- 1.3 On 16 October 2020 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

- 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, 3 and 4 for a Carpentry Licence.

Carpentry Licence Competencies:

- 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:

- [Omitted] does have some level of skill, as confirmed by all referees contacted. However the evidence presented in the application and information gathered from referees highlights that the applicant hasn't had consistent confirmation of regular work across the full scope aligned to the carpentry license class criteria.
- All projects listed in the application form are quite limited in the scope, or detailed as such and confirmed by referee contact. There is some confusion around dates projects were carried out, if accurate then they border on the recent criteria of closer to 5 years than recently.
- The applicant was able to answer questions around the Regulatory Environment with good detail to support competency 1, he wasn't quite so familiar with various technical documentation to award competency 2.
- There's sufficient doubt and not a lot of consistent work history to award competencies 3 and 4 with limited evidence presented in the applicant carrying out the work independently.

4.3 The Registrar concluded:

- I have been delegated under S312 (1) to review the assessment report and make a decision about [Omitted]'s application.
- I reviewed the assessors report and [Omitted]'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 written information about his work history, including photos, with his appeal.

5.2 The Appellant appeared with [Omitted].

5.3 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 Competency for the Carpentry licence:

⁷ clause 10 and 11 of the Rules

Carpentry Licence Competencies:

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

- 6.2 The Board then considered Competencies 2, 3 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 Board concluded that the Appellant **failed to provide** evidence to demonstrate that he met sufficient Performance Indicators to satisfy the requirements of Competencies 2, 3 and 4 for a Carpentry Licence.
- 6.5 The Board noted that he could not demonstrate a sufficient depth of knowledge and understanding regarding the building process and terminology across a range of residential construction methods.
- 6.6 The Board encouraged [Omitted] to gain more experience and a more in depth theoretical knowledge across a wider range of building work. He should be able to explain why things are done a certain way. Once this knowledge is gained, the Appellant is encouraged to apply again.

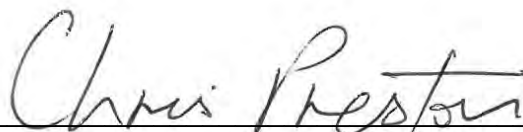
7.0 Board's Decision

- 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 15th day of February 2021



C. Preston
(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.”*