

Before the Building Practitioners Board

	BPB Complaint No. 26489
Licensed Building Practitioner:	John Adair (the Respondent)
Licence Number:	BP 107998
Licence(s) Held:	Carpentry

Penalty Decision of the Board under section 318 of the Building Act 2004

Complaint or Board Inquiry:	Complaint
Hearing Location:	Christchurch
Hearing Type:	In Person
Hearing Date:	11 March 2025
Substantive Decision Date:	14 April 2025
Penalty Decision Date:	10 June 2025

Board Members Present

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr P Thompson, LBP, Carpentry and Site AoP 3, Quantity Surveyor

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.

Disciplinary Finding:

The Respondent **has** committed disciplinary offences under sections 317(1)(1)(b), (d) and (da)(ii) of the Act.

The Respondent's licence is cancelled, and he may not apply to be relicensed for a period of six (6) months. He is ordered to pay costs of \$4,150. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

Summary of the Board's Decision

- [1] The Respondent carried out and supervised building work on new residential dwellings. Council inspection records showed that there were significant departures from the building consent and that work had been carried out in a manner that was non-compliant with the consent issued. The departures were serious, and the Board found that the Respondent had carried out and supervised building work in a negligent manner and that, with respect to building consent change processes, he had conducted himself in an incompetent manner. The Board also found that the Respondent had carried out building work in a manner that was contrary to a building consent and that he had failed to provide a record work on completion of restricted building work.
- [2] The Board decided, because of the level of non-compliance, its findings of incompetence, and the cavalier attitude towards consenting processes, that it would cancel the Respondent's licence and order that he not be able to apply to be relicensed for a period of six months. It also ordered that he pay costs of \$4,150. A publication order was made in addition to a record of the distant offending being recorded on the public Register for a period of three years.

The Charges

- [3] This penalty decision arises out of the Board's substantive decision in which it found that the Respondent had breached sections 317(1)(b), (d) and (da)(ii) of the Act.
- [4] 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.
- [5] In its substantive decision, the Board set out its indicative position regarding penalty, costs, and publication and invited the Respondent to make written submissions on those matters.
- [6] On 14 May 2025 and again on 19 May 2025, Respondent filed submissions. The Board has considered them and has made the following decision.

The Submissions

- [7] In his 14 May 2025 submission, the Respondent stated he had not received any notice of the hearing held on 11 March 2025. That statement was made notwithstanding a statement by him on 11 March 2025 that he had completely forgotten he had a hearing on 11 March 2025.
- [8] The history of the matter was set out in the Substantive Decision. It noted that the day before a hearing that had been set down for 4 February 2025, the Respondent sought an adjournment to allow him to obtain documentation he considered he needed for the hearing from the Building Consent Authority (BCA). An adjournment was granted, and the Respondent was advised that the hearing would proceed on 11 March 2025. A Notice of Hearing was issued on 19 February 2025. On 9 March 2025, the Respondent filed the documents that he had been seeking from the BCA. Notwithstanding that history of events, the Respondent denies any knowledge of the 11 March hearing. The

Board does not accept that the Respondent was not given notice of the 11 March 2025 hearing and that he did not know that it was proceeding.

- [9] The Board also notes that the Respondent was provided with a transcript of the 11 March 2025 hearing and was asked if he wanted the opportunity to resume the hearing, provide evidence and cross-examine witnesses. He did not take up that opportunity.
- [10] The 14 May 2025 submission addressed substantive matters, provided further evidence, and called into question the Board's findings. Notwithstanding that the Board did not invite submissions on its findings, it has considered the submissions and evidence and has decided that, if accepted, they would not change the Substantive Decision it has made.
- [11] Given the above, the Board will not revisit its Substantive Decision or hold a rehearing. If the Respondent disagrees with the Board's decision, he should appeal it to the District Court as set out below.
- [12] Finally, the Respondent did not address the Board's indicative penalty, costs, or publication orders in his submissions. Because he has not and because his submissions did not contain any reasons why the Board should depart from its indicative orders, the Board has decided to affirm them.

Section 318 Order

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

Penalty: Pursuant to section 318(1)(a)(i) of the Act, the Respondent's licence is cancelled, and the Registrar is directed to remove the Respondent's name from the Register of Licensed Building Practitioners and pursuant to section 318(1)(a)(ii) of the Act the Board orders that the Respondent may not apply to be relicensed before the expiry of six [6] months.

Costs: Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$4,150 (GST included) towards the costs of, and incidental to, the inquiry of the Board.

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

In terms of section 318(5) of the Act, the Respondent will be named in this decision, which will be published on the Board's website.

- [14] 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.

Right of Appeal

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

Signed and dated this 2nd day of July 2025.



Mr M Orange
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.*