

Before the Building Practitioners Board

	BPB Complaint No. 26351
Licensed Building Practitioner:	Neil Richard Sayer (the Respondent)
Licence Number:	BP 111605
Licence(s) Held:	Carpentry

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

Complaint or Board Inquiry:	Complaint
Hearing Location:	Wellington
Hearing Type:	In Person
Hearing Date:	12 December 2024
Substantive Decision Date:	4 August 2025
Penalty Decision Date:	25 September 2025

Board Members Present

Mr M Orange, Chair, Barrister (Presiding)
Mrs F Pearson-Green, Deputy Chair, LBP, Design AoP 2
Mr G Anderson, LBP, Carpentry and Site AoP 2
Ms E Harvey McDouall, Registered Architect
Mr C Lang, Building Surveyor and Quantity Surveyor

Appearances:

J Butler and R Hindriksen for the Respondent
J Sylvester for the Complainant

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)(b) and (d) of the Act.

The Respondent **has not** committed a disciplinary offence under section 317(1)(da)(ii) of the Act.

The Respondent is fined \$4,500 and ordered to pay costs of \$2,425. A record of the disciplinary offending will be recorded on the Public Register for a period of three years.

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Summary of the Board's Penalty Decision

- [1] The Respondent carried out building work in a negligent manner and in a manner that was contrary to the building consent issued. He is fined \$4,500 and ordered to pay costs of \$2,425. A record of the disciplinary offending will be recorded on the public Register for a period of three years.

The Charges

- [2] This penalty decision arises out of the Board's substantive decision in which it found that the Respondent had breached sections 317(1)(b) and (d) of the Act.
- [3] 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.
- [4] 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.
- [5] On 15 September 2025, the Board received the Respondent's submissions. It has considered them and made the following decisions.

The Submissions

- [6] The Respondent accepted some shortcomings but did not accept that he demonstrated a cavalier attitude or that his conduct should be considered at the higher end of negligence. He stated:
- At all times, I acted with the intention of complying with the Building Code and fulfilling my obligations to the project.*
- [7] The statement does not reflect the reality of the project or the Respondent's actions. It was clear from the evidence before the Board that significant departures from the Building Code and the building consent occurred and arose because of the Respondent's decisions and actions.

- [8] Regarding a rebate detail, the Respondent submitted that he discussed it with the project engineer, who advised that the rebate was unnecessary and that he relied, in good faith, on that professional guidance.
- [9] The Respondent's submission was not supported by the hearing documentation or by the evidence received at the hearing. If the Respondent disagrees with the Board's substantive decision, he is reminded of his right of appeal.
- [10] In terms of other mitigating factors, the Respondent stated he had learnt from the matter, remained committed to upholding standards, and to meeting regulatory and professional requirements. The Respondent submitted:

I am concerned that the penalty of \$4,500 does not adequately take into account the circumstances of the project, the professional guidance I received, or my record as a practitioner. I respectfully request that the Board reconsider both the severity of the findings and the level of the fine imposed.

- [11] As noted above, the professional guidance is not accepted as a mitigating factor. With respect to the remaining submissions, the Respondent's record was taken into account, as were the circumstances of the project when the indicative penalty was set.

Penalty

- [12] The Board's initial view was that a fine of \$4,500 was the appropriate penalty for the disciplinary offence. Having considered the submissions received, the Board has decided to uphold its initial view.

Costs

- [13] The Board's initial view was that \$2,425 in costs was appropriate. The Respondent did not make any submissions on the costs order. The indicative order is affirmed.

Publication of Name

- [14] The Board's initial view was that there were no good reasons to publish the matter further. No submissions were made on publication. The indicative order is affirmed.

Section 318 Order

- [15] 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 \$2,425 (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.

- [16] 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

- [17] The right to appeal Board decisions is provided for in s 330(2) of the Act.ⁱⁱ

Signed and dated this 9th day of October 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.*