

## Before the Building Practitioners Board

	BPB Complaint No. CB25710
Licensed Building Practitioner:	Darshan Shah (the Respondent)
Licence Number:	BP 132197
Licence(s) Held:	Carpentry; Site 2

---

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

---

Complaint or Board Inquiry	Complaint
Hearing Location	Video Conference
Hearing Type:	In Person
Hearing Date:	8 December 2021
Substantive Decision Date:	13 December 2021
Penalty Decision Date:	21 February 2022

#### Board Members Present

Mr C Preston, Chair (Presiding)  
Mrs F Pearson-Green, LBP, Design AOP 2  
Mr R Shao, LBP, Carpentry and Site AOP 1  
Ms J Clark, Barrister and Solicitor, Legal Member

#### 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 section 317(1)(b) and (d) of the Act.

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

### **Summary of the Board's Decision**

- [1] The Respondent carried out or supervised building work in a negligent manner and in a manner that was contrary to a building consent. The Board orders the suspension of the Respondent's Carpentry and Site 2 licences for a period of 6 months, and he is ordered to pay costs of \$2,500. The decision will be recorded in the Register of Licensed Building Practitioners for a period of three years.
- [2] The allegation that the Respondent conducted himself in a manner that brings, or is likely to bring, the regime under this Act for licensed building practitioners into disrepute did not meet the threshold for the matter to be dealt with as a disciplinary offence.

### **Introduction**

- [3] Following a hearing via video conference on 8 December 2021 the Board issued its decision dated 13 December 2021.
- [4] The Board heard evidence during the hearing relevant to penalty, costs and publication and made indicative orders in its decision. It gave the Respondent an opportunity to provide further evidence or submissions relevant to the indicative orders.
- [5] By emails dated 18 January 2022, 6 February 2022, and 9 February 2022, the Respondent made submissions on the penalty and costs orders. He did not make any submissions on the publicity order.
- [6] The Respondent submitted that the penalty was too much, he would be prevented from working on current projects, and that he was the only earner in his family. The Respondent also gave information on the company he was contracted to for this project, including a newspaper article that reported the project company had ceased operations.

### **Board Decision**

- [7] The Board has considered the Respondent's submissions and decided that the penalty, costs, and publication orders in its decision of 8 December 2021 are confirmed.
- [8] The Board considers that the gravity of the disciplinary offences committed under sections 317(1)(b) and (d) of the Act is such as to support the penalty and costs orders made.
- [9] The licensing regime exists to ensure the public can have confidence in those who carry out restricted building work which is integral to the safe and healthy functioning of a home. A practitioner who fails to display the required competencies puts those objects at risk.

- [10] The Board notes that the Respondent is not prevented from working during his suspension period, so long as, (in respect of Restricted Building Work), he is supervised by a Licensed Building Practitioner. The Respondent will also be able to carry out building work that is not restricted building work. The Respondent should also note that he can apply to the Registrar for time to pay off the costs.

### Section 318 Order

- [11] Accordingly, the Board directs that:

**Penalty:** Pursuant to section 318(1)(b) of the Act, the Respondent's licence is suspended for a period of six (6) months and the Registrar is directed to record the suspension in the of Licensed Building Practitioners.

**Costs:** Pursuant to section 318(4) of the Act, the Respondent is ordered to pay costs of \$2,500 (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(I)(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.

- [12] 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

- [13] The right to appeal Board decisions is provided for in section 330(2) of the Act<sup>i</sup>.

Signed and dated this 1<sup>st</sup> day of March 2022.



**Mr C Preston**  
Presiding Member

---

**<sup>i</sup> 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.*