
ELECTRICAL SAFETY AUTHORITY REVIEW PANEL FOR LICENSING

B E T W E E N:

PAUL MCGEE
cob MCGEE ELECTRICAL REPAIR SERVICES
(the "Applicant")

- and -

DIRECTOR, LICENSING AND CERTIFICATION
(the "Director")

DECISION

Review Panel: Roy Hicks, Wasim Hassan, Frank Zechner
Date: November 9, 2007
File Number: 6006233
Appeal Number: NOAL07-052

APPEARANCES

Director, Licensing, and Certification

Richard Steinecke, Counsel
Lucy Impera, Director, Licensing
and Certification
Wendy Reid, Project Coordinator

McGee Electrical Repair Services

Paul McGee, Proprietor

INTRODUCTION

[1] A hearing in this matter was held on Thursday, October 30, 2007 before the Review Panel comprised of Roy Hicks, Wasim Hassan and Frank Zechner. There were no objections to the jurisdiction of the Review Panel to hear this matter and there were no other preliminary objections.

[2] At the outset of the hearing, on behalf of the Applicant, a six-page document was filed and admitted without objection from the Director as Exhibit 1 with each of the six pages being marked as Exhibits 1(a) to 1(f). Exhibit 1(e) is a certificate of qualification from the Corporation of the City of Oshawa dated November 3, 1958 certifying that the Applicant had passed a prescribed examination and is qualified as an electrician under the provisions of By-law No. 2933 of the Corporation of the City of Oshawa and providing that the certificate shall lapse and become void and have no effect unless the holder thereof obtains an electrician's license under the provision of By-law No. 2933 within six (6) months of the date of the certificate and obtains a renewal of such license annually thereafter. Exhibits 1(e) and 1(f) are copies of three receipts from the City of Oshawa to the Applicant which appeared to show a renewal of an electrician's license and an electrical contractor's license from the City of Oshawa, the last date of the renewal period expiring on December 31, 1959.

[3] The Director filed a Documents Brief which was not objected to by the Applicant and was admitted and marked as Exhibit 2. The Documents Brief contained documents showing the record of the Applicant's dealing with the Director in connection with the matter. Those documents will be referred in this Decision by reference to the Tab numbers of the Documents Brief.

[4] On August 3, 2007, a Notice of Proposal was issued by the Director to the Applicant (Tab 9) refusing to grant a master electrician license to the Applicant pursuant to section 113.2 of the *Electricity Act, 1998* on the basis that the Applicant had failed to demonstrate three years as a construction and maintenance electrician, a domestic and rural electrician or an industrial electrician carrying on electrical work under a valid certificate of qualification as required under s. 11(b)(i) of Ontario Regulation 570/05.

[5] On March 15, 2007, the Applicant signed and submitted to the Director an Electrical Contractor General Undertaking (the "Undertaking") pursuant to which he accepted four conditions stipulated by the Electrical Safety Authority (Tab 5). These conditions are as follows:

- (i) Paul Gerard McGee, owner of McGee Electrical Repair Services obtains his Electrician Certificate of Qualification from the Ministry of Training, Colleges and Universities by June 30, 2007 and a copy of the Certificate of Qualification is sent to the Registrar within ten (10) days of obtaining it;

- (ii) Paul Gerard McGee, owner of McGee Electrical Repair Services write and pass the Master Electrician Exam by June 30, 2007 or a new Master Electrician is designated;
- (iii) a copy of the Certificate of Examination is sent to the Registrar within fifteen (15) days of receiving the Certificate;
- (iv) Paul Gerard McGee obtain a Master Electrician License within sixty (60) days of meeting the three (3) year experience requirement for obtaining a Master Electrician License as prescribed under Section 11 of Ontario Regulation 570/05.

The Undertaking provides that by signing it, the Applicant is deemed to having accepted the four conditions and that a violation of those conditions could be grounds for the suspension, revocation, or refusal to renew his license pursuant to section 113.2, subsection (2) of the *Electricity Act, 1998*.

[6] On August 30, 2007, the Director issued her decision refusing to grant the Applicant's appeal to the Director, on the grounds that the Applicant had failed to meet Condition (iv) of the Undertaking and that he had not yet met the three year experience requirement for obtaining the Master Electrician License as prescribed under section 11 under Ontario Regulation 570/05 (Tab 12).

[7] On September 26, 2007, the Applicant filed a Notice of Appeal before the Review Panel appealing the Director's decision (Tab 13). The Applicant's position in support of the appeal is stated to be extenuating circumstances regarding the three year experience requirement under section 11(b)(i) of the Ontario Regulation 570/05.

ISSUES

[8] There are two issues in this appeal. The first issue is whether the Applicant has, by virtue of his work experience, satisfied the requirements of section 11(b)(i) of Ontario Regulation 570/05 and Condition (iv) of the Undertaking being the three year experience requirement for obtaining a master electrician license as required under the Regulation. The second issue is whether there is a basis which would permit the overriding of the requirement of section 11(b)(i) of Regulation 570/05 as a condition for obtaining a master electrician license.

[9] In section 11 of Ontario Regulation 570/05 states:

- 11. An individual who applies for master electrician license shall not be issued the license unless the applicant,
 - (a) is at least eighteen years old;
 - (b) demonstrates at least three years experience;

- (i) as a construction and maintenance electrician, a domestic and rural electrician or an industrial electrician carrying out electric work under a valid certificate of qualification;
 - (ii) working for an electrical contractor as a licensed professional engineer with the Professional Engineers of Ontario; or
 - (iii) working for an electrical contractor in the capacity of a certified engineering technician or a certified engineering technologist registered with the Ontario Association of Certified Engineering Technicians and Technologists;
- (c) has passed the master electric qualifying examination within 12- month period preceding the date of the application; and
- (d) does not owe the Authority any money for which payment arrangements have not been made.

[10] Section 1 of Ontario Regulation 570/05 defines a certificate of qualification as follows:

“certificate of qualification” means a certificate of qualification issued under the *Trades Qualification and Apprenticeship Act* or the *Apprenticeship and Certification Act, 1998*, as the case may be”

[11] It is not disputed that the Applicant does not have master electrician license and does not have three years experience working under a “certificate of qualification” as defined in section 1 of Ontario Regulation 570/05. It is also not disputed that the Applicant is at least 18 years old, has passed the master electrician qualification examination and does not owe the Authority any money.

[12] In essence, the Applicant asks the Review Panel to consider his work experience as an electrician as a basis to override the requirements of section 11 of Ontario Regulation 570/05 that he “...demonstrates at least three years experience,...under a valid certificate of qualification.”

[13] The Applicant also submits that the Review Panel should not enforce all of the conditions of the Undertaking agreed to by the Applicant and in particular, Condition (iv) that he obtain a master electrician license within sixty (60) days of meeting the three years experience requirement for obtaining the master electrician license as prescribed in section 11 of Ontario Regulation 570/05.

EVIDENCE

[14] Paul McGee testified on his own behalf and Wendy Reid and Lucy Impera each testified on behalf of the Director.

[15] Paul McGee testified that he had obtained a certificate of qualification as an electrician from the City of Oshawa in 1958 and he acknowledged that he had not renewed it after 1962. Exhibits 1(e) and (f) appear to show a renewal only up to December 31, 1959, however, as explained below, this discrepancy is not material to this Decision.

[16] Paul McGee testified that he operated a business wiring small apartment buildings, schools, and small plazas for about four years from 1958-1962. He testified that he then worked in electrical maintenance for an electrical manufacturer in Peterborough for about two years starting in 1962 after which he gradually transferred his activities to equipment design. He further testified that in or about 1983 he started his own business as McGee Electrical Repair Services carrying out with repairs to electrical equipment, wiring of domestic and commercial activities and making calculations for local electrical contractors.

[17] Mr. McGee testified that he became aware of the requirements of Ontario Regulation 570/05 during December 2005 or January 2006 at an Ontario Electrical League meeting at which Lucy Impera was a speaker. He stated that at that time he expressed his concerns to Ms. Impera about the requirements of the Regulation with respect to the Master Electrician License.

[18] Mr. McGee acknowledged that he is unaware that there was a province-wide requirement for electricians to have a certificate of qualification and acknowledged that he did not have a valid certificate of qualification prior to the one he obtained on April 16, 2007. Mr. McGee went on to state that his many years of experience as an electrician should be an acceptable basis to satisfy the requirements of the Regulation. However, he acknowledged that his failure to obtain a master electrician license would not cause any undue hardship for him.

[19] On behalf of the Director, Lucy Impera testified that she had been involved in the drafting of Ontario Regulation 570/05. She stated that the master electrician licensing requirements had been discussed widely with stakeholders including electrical contractors and other Ministries of the Ontario Government prior to the drafting of the Regulation. It was her view that there was no discretion granted to the Director under the Regulation with respect to the master electrician licensing requirements and that to make an exception would be unfair to the approximately 6,600 electricians who have complied with or are taking steps to comply with the Regulation. She also stated that the goals of the Regulation include consumer protection and to reduce the "underground economy" which refers to electricians doing electrical work without being qualified in accordance with provincial regulations.

[20] Ms. Impera testified that the certificate of qualification issued to the Applicant by the City of Oshawa in 1958 (Exhibit 1(d)) was not a valid certificate of qualification for the purposes of Ontario Regulation 570/05, section 11.

[21] Both Wendy Reid and Lucy Impera testified that the Applicant had been granted a provisional electrical contractor license, which was renewable annually under Ontario Regulation 570/05, section 15(12) until November 30, 2010. She testified that Mr. McGee could continue to operate his business and work as an electrician during which time he could

eventually meet the three year experience requirement under his certificate of qualification necessary for the master electrician license.

DECISION

[22] It is clear that the Applicant does not meet the requirement for a master electrician license under Ontario Regulation 570/05, section 11 in that he cannot demonstrate at least three years experience as a construction and maintenance electrician, a domestic and rural electrician or an industrial electrician carrying out electrical work under a valid certificate of qualification. Based on the evidence and having regard to the clear wording of the Ontario Regulation 570/05, this Review Panel is satisfied that the certificate of qualification issued by the City of Oshawa to Mr. McGee is (Exhibit 1(e)) not a "certificate of qualification" within the meaning of section 1(1) of Ontario Regulation 570/05. It is therefore clear that Mr. McGee cannot demonstrate at least three years experience under a valid certificate of qualification as required by section 11(b)(i) of Ontario Regulation 570/05 and as agreed to by him under Condition (iv) of the Undertaking. Further, we conclude that there is no basis which would permit this Review Panel to override the requirement of section 11(b)(i) of Regulation 570/05 as a condition for obtaining a master electrician license. It is clear that the Director has been granted no discretion under section 11 of Ontario Regulation 570/05 concerning the granting of a master electrician license.

[23] Taking into account all the evidence and the submissions of the parties, it is the decision of this Review Panel to deny the appeal of the Applicant. In this regard, we find that the Director's Decision was the correct decision taking into account all the relevant considerations.

Dated November 9, 2008

Wasim Hassan
Roy Hicks
Frank Zechner