

1 **BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

2		)	
3	<b>IN THE MATTER OF:</b>	)	<b>FINAL ORDER</b>
4	<b>RYAN D. HASH, AN INDIVIDUAL</b>	)	<b>OAH CASE NO. 1403949</b>
5	<b>RESPONDENT</b>	)	<b>BCD CASE NO. C2014-0215</b>

6 On September 16, 2014, a Notice of Proposed Assessment of a Civil Penalty and Final Order  
7 on Default (proposed civil penalty) was issued to Respondent for making an electrical installation  
8 without a supervising or journeyman electrician's license during the installation of a wall furnace for  
9 the account of another in violation of Oregon Revised Statutes (ORS) 479.620(3).

10 The Office of Administrative Hearings' Administrative Law Judge (ALJ) Marni Davis held a  
11 contested case telephone hearing on the proposed civil penalty on January 13, 2015. A proposed order  
12 was issued February 27, 2015. The proposed order found that the Building Codes Division met its  
13 burden of proof and concluded that Respondent violated ORS 479.620(3).

14 The board adopts and incorporates by reference the attached proposed order, dated February  
15 27, 2015, disciplining Respondent for violating ORS 479.620(3).

16  
17 Dated this 26 day of 2015, 2015

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19 \_\_\_\_\_  
20 Chair  
21 Electrical and Elevator Board  
22 State of Oregon

23 **NOTICE OF OPPORTUNITY FOR JUDICIAL REVIEW (OREGON COURT OF APPEALS)**

24 Respondent is entitled to judicial review of this Final Order pursuant to ORS 183.482. Judicial  
25 review may be initiated by filing a petition for review with the Oregon Court of Appeals within sixty  
(60) days from the date this Final Order was mailed to Respondent.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
ELECTRICAL AND ELEVATOR BOARD**

IN THE MATTER OF:

**RYAN D. HASH**

) **PROPOSED ORDER**

)

) OAH Case No.: 1403949

) Agency Case No.: C2014-0215

**HISTORY OF THE CASE**

On September 16, 2014, the Electrical and Elevator Board (Board) of the Building Codes Division (Division) issued a Notice of Proposed Assessment of Civil Penalty and Final Order on Default to Ryan D. Hash (Respondent). On September 25, 2014, the Division issued an Amended Notice and Respondent requested a hearing.

On November 5, 2014, the Division referred the hearing request to the Office of Administrative Hearings. Administrative Law Judge (ALJ) Marni J. Davis was assigned to preside at hearing.

ALJ Davis held a contested case telephone hearing on January 13, 2015. Respondent appeared and testified on his own behalf. Judith Moore represented the Division. Tania Close and Shawn Haggin testified on behalf of the Division. The record closed at the conclusion of the hearing.

**ISSUES**

1. Whether Respondent made an electrical installation without a supervising or journeyman electrician's license, in violation of ORS 479.620(3).
2. Whether the Division may impose a civil penalty of \$2,000 against Respondent. ORS 455.895(1)(b) and OAR 918-001-0036.

**EVIDENTIARY RULING**

Exhibits A1 through A18, offered by the Division, were admitted into the record without objection.

**FINDINGS OF FACT**

1. Ryan D. Hash (Respondent) is not a licensed journeyman electrician. (Ex. A1; test. of Close and Respondent.) Respondent worked as a residential HVAC installer for Blue Water, Inc. dba Columbia Housewarmers. (Ex. A3; test. of Respondent.)

2. On approximately October 10, 2013, Respondent worked at two separate residential units located at 1365 Franklin Avenue, Astoria, Oregon. Respondent removed the wall furnaces in each unit and installed new furnaces in each unit. One unit had no tenants and Respondent did not connect that wall furnace to the electricity. The second unit was occupied by tenants. The tenants were concerned that they would not have heat over night. Respondent contacted his supervisor, Peter Schauermann, to inform him of the tenants concerns. Mr. Schauermann and Respondent agreed that Respondent should make a temporary connection, known as a pigtail, from the wall furnace to the electricity in the home so the tenants could use the furnace. Respondent installed the pigtail so the furnace would operate until a licensed electrician could install a permanent connection. Respondent did not make a permanent connection for either wall furnace. (Test. of Respondent.)

3. A pigtail is a cable assembly that conveys electrical current from the receptacle to the appliance. Installing a pigtail on an appliance is an electrical installation pursuant to ORS 479.530(10). (Test. of Haggin.)

4. The Board based the proposed penalty in this case on the factors set out within the Division's penalty matrix. (Ex. A18; test. of Close.)

### CONCLUSIONS OF LAW

1. Respondent made an electrical installation without a supervising or journeyman electrician's license, in violation of ORS 479.620(3).
2. The Division may impose a civil penalty of \$2,000 against Respondent.

### OPINION

The Division contends that Respondent made an electrical installation without a supervising or journeyman electrician's license. The Division also contends that Respondent should be assessed a civil penalty in the amount of \$2,000 for the violation. The Division has the burden to show, by a preponderance of the evidence, that Respondent committed the alleged violation, and that the proposed penalty is appropriate. ORS 183.450(2), *Harris v. SAIF*, 292 Or 683, 690 (1982). Proof by a preponderance of evidence means that the fact finder is persuaded that the facts asserted are more likely true than not true. *Riley Hill General Contractor, Inc. v. Tandy Corp.*, 303 Or. 390 (1987). Based on this record, the Division met its burden.

#### *Making an Electrical Installation without a Supervising or Journeyman Electrician's License*

ORS 479.620(3) provides: Subject to ORS 679.540, a person may not:

Except as provided in ORS 479.630(10)(c) and (11)(f), direct, supervise or control the making of an electrical installation without a supervising electrician's license.

Respondent confirmed that he installed two wall furnaces at 1365 Franklin Avenue, in Astoria, Oregon on October 10, 2013. Respondent made a temporary connection from one of the

wall furnaces to the electricity so the tenants could use the wall furnace. Respondent testified that he did not believe making a temporary connection - a pigtail - would constitute an electrical installation and require a supervising or journeyman electrician's license. Installing a pigtail on an appliance is an electrical installation pursuant to ORS 479.530(10). While Respondent may not have been aware that he performed an electrical installation that required a supervising or journeyman electrician's license, such knowledge is not required under the applicable statute. Respondent made an electrical installation without the required license, in violation of ORS 476.620(3).

### *Appropriate Penalty*

The Division has adopted administrative rules to administer and enforce ORS chapter 693. OAR 918-001-0036(6) provides that the Director may, subject to approval of the Boards, may develop a penalty matrix to use as a guideline for assessing civil penalties.

The Division's penalty matrix provides for a civil penalty of \$2,000 for violating ORS 479.620(3). Therefore, the \$2,000 civil penalty proposed by the Division is appropriate.

### **ORDER**

I propose the Building Codes Division, Electrical and Elevator Board, issue the following order:

Ryan D Hash shall pay a \$2,000 civil penalty for violating ORS 479.620(3).

**Marni J. Davis**

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Administrative Law Judge  
Office of Administrative Hearings

### **APPEAL PROCEDURE**

This is the Administrative Law Judge's Proposed Order. You have the right to file written exceptions and argument to be considered per OAR 137-003-0650. Your exceptions and argument must be received within 20 calendar days after the service date of this Proposed Order. Send them to:

Building Codes Division  
Manager, Enforcement and Licensing  
PO Box 14470  
Salem, OR 97309-0404

**CERTIFICATE OF MAILING**

On February 27, 2015, I mailed the foregoing Proposed Order issued on this date in OAH Case No. 1403949.

By: First Class Mail

Ryan Hash  
91306 Lewis and Clark Rd  
Astoria OR 97103

Judith Moore  
Building Codes Division (DCBS)  
PO Box 14470  
Salem OR 97309-0404

Lucy Garcia  
Administrative Specialist  
Hearing Coordinator