Plumbers, Gasfitters and Drainlayers Board

RADOVICH v MATHEW WATKINS

Plumbers, Gasfitters & Drainlayers Board Disciplinary Decision (2024/24)

Summary

Mathew Watkins, Tradesman Plumber, Certifying Gasfitter, was charged with carrying out gasfitting in a negligent or incompetent manner and issuing a false or misleading return in relation to residential gasfitting carried out in Auckland/Tāmaki Makaurau.

Mr Watkins pleaded guilty to the charge.

The Board considered Mr Watkins' offending was very high in terms of seriousness given the significant number of defects and the very serious nature of some of them. This was a case that could have had very serious consequences. The Board was concerned that this was Mr Watkins' second disciplinary conviction for quite serious, defective work within a short period of time and strongly encouraged Mr Watkins to follow through on his intention to find employment with a company in the future rather than return to working for himself when he returns to gasfitting work.

The Board recognised that Mr Watkins had pleaded guilty to the charges, albeit this had occurred only after the investigator had fully prepared for a hearing on this matter. Mr Watkins also recognised his failings on this occasion and was remorseful which was to his credit.

Given the seriousness of the offending in this case, the Board ordered Mr Watkins certifying gasfitter registration and licence be suspended until he had completed an appropriate competence programme and ordered him to pay $8,900 towards costs.

IN THE MATTER OF a disciplinary hearing pursuant to section 101 of the Plumbers, Gasfitters, and Drainlayers Act 2006

BETWEEN **WAYNE RADOVICH**

Investigator

AND **MATHEW WATKINS**
Tradesman Plumber, Certifying Gasfitter, of Auckland/Tāmaki Makaurau

Registered Person

DECISION OF THE BOARD
10 FEBRUARY 2025

Hearing:	Held in Wellington/Te Whanganui-a-Tara on 27 November 2024
Members sitting:	Diana Kuhtz-Covich (Chair), James Smith, Selwyn Hikuroa, Beth Healy, Tofa Suafole Gush
Counsel:	Elena Mok for the investigator Mr Watkins was self-represented
Legal advisor:	Michael Hodge

Disciplinary hearing

1. On 27 November 2024, the Plumbers, Gasfitters and Drainlayers Board (**Board**) held a disciplinary hearing to consider a complaint by Garry Cruickshank against Mathew Watkins, Tradesman Plumber, Certifying Gasfitter. The complaint related to gasfitting undertaken by Mr Watkins at residential premises in Auckland/Tāmaki Makaurau.

Guilty plea

2. On 31 July 2024, Mr Watkins pleaded guilty to charges of negligent or incompetent gasfitting and issuing a false or misleading return and signed an agreed summary of facts, the material parts of which were as follows:

    a. Mr Watkins is a registered Tradesman Plumber and Certifying Gasfitter. In September 2021 at the time of the work, Mr Watkins was a registered and licensed Tradesman Plumber and Tradesman Gasfitter. Mr Watkins' supervisor for gasfitting was his father, Christopher Watkins (**Mr C Watkins**).

    b. On 4 September 2021, Mr Watkins installed gas pipework, an instantaneous water heater, freestanding gas cooker and a two-burner gas cooktop at premises in Auckland/Tāmaki Makaurau. The work was carried out in two separate buildings at the property and the cooktop was installed in a bedroom in a converted garage. Mr C Watkins did not provide any supervision of Mr Watkins in relation to this work.

    c. On 21 March 2023, Garry Cruickshank, a Senior Specialist at Auckland Council, visited the property following a complaint that the garage had been converted to sleeping accommodation. Mr Cruickshank identified significant compliance issues with the work in the converted garage which he identified as being unsafe and presenting a high risk to the health and safety of the occupants of the property. Mr Cruickshank obtained a copy of the Certificate of Compliance - Gas Safety Certificate (**gas certificate**) for the work which was dated 4 September 2021 and had been signed by Mr Watkins.

    d. Mr Cruickshank, a Certifying Gasfitter himself, identified the following issues with the work carried out at the property:

        i. the LPG changeover valve connected to the gas cylinders supplying all the appliances on the property delivered inadequate pressure, which was contrary to clause G11.3.1 of the New Zealand Building Code (**Code**)

        ii. a flueless gas appliance was installed in a bedroom or room used for sleeping, which was contrary to clause 6.2.3 of AS/NZS 5061.1:2013 (**Standard**)

iii. no test point was installed on the cooktop, which was contrary to clause 5.11.4 of the Standard

iv. the PE-X pipe for the cooktop:

A. was too small to provide adequate flow or pressure, which was contrary to clause 5.2.4 of the Standard

B. the underground section of the pipe was not buried at minimum depth or protected, which was contrary to clause 5.4.3 of the Standard

C. was run around the outside of one of the buildings on the ground over gravel, which was contrary to clauses 5.3.3, 5.3.7, 5.4.4, and 5.4.6 of the Standard

D. was unsupported and not protected from the risk of physical damage and sunlight, which was contrary to clause 5.3.17 of the Standard

E. was too close to other services, which was contrary to clause 5.4.12 of the Standard

v. the gas cylinder for the cooktop in the garage was incorrectly labelled 'Natural Gas' when it was connected to LPG, which was contrary to clause 6.1.1 of the Standard.

e. Between 22 March 2023 and 26 April 2023, Mr Watkins returned to the property and attempted to remediate the defects with the work. He remediated some, but not all of the compliance issues. Again, Mr C Watkins did not attend the property while Mr Watkins carried out this work. Mr Watkins did not issue a gas certificate for the remedial work or enter it on the Electricity and Gas High-Risk Database (**Database**) as he was required to do under the Gas (Safety and Measurement) Regulations 2010 (**Regulations**).

f. On 26 April 2023, Mr Cruickshank returned to the property and identified further compliance issues with the gasfitting work. On 1 May 2023, he made a complaint to the Board.

g. Hamish Alexander, a Certifying Gasfitter and technical advisor to the Board, identified the following issues with the work carried out at the property in addition to the issues identified by Mr Cruickshank:

i. a parallel thread was used at the 20mm – 15mm male female connection on the auto changeover regulator where a tapered thread should have been used, which was contrary to clause 4.4 of the Standard

ii. no label was affixed to the gas cylinders for the cooktop identifying the proprietary piping system used, which was contrary to clause 4.5.4 of the Standard

iii. there was no means of isolation between the two buildings on the property, no means of isolation at the cooktop to facilitate maintenance, and no label for the valve as the valve was not installed, which was contrary to clauses 2.4.2 and 5.2.10 of the Standard

iv. the gas connection on the cooktop had no suitable means of disconnection as it was hard piped to the appliance, which was contrary to clauses 2.6.7 and 5.3.9 of the Standard and G11.3.4 of the Code

v. the pipework for the cooktop passed through the exterior wall of the building and was not sealed to prevent the entry of gas into the building and compromised the integrity of the vapour/weathertightness barrier, which was contrary to clause 5.3.9 of the Standard

vi. the installation could not be commissioned as there was no test point on the cooktop, which was contrary to clause 2.6.8 of the Standard

vii. the galvanised pipework clip was in contract with the PE-X elbow, which was contrary to clause 5.5.2 of the Standard.

h. Mr Alexander assessed the risk associated with the gasfitting work as high. The non-compliant aspects of the work in relation to the cooktop risked incomplete combustion and the release carbon monoxide. As the cooktop was installed in a sleeping space, it was highly likely to cause significant harm. Mr Alexander considered that the work was unsafe contrary to clause G11.2 of the Code and regulation 9 of the Regulations.

i. In addition, Mr Alexander identified issues with the gas certificate issued by Mr Watkins which certified that the work was safe, had been done lawfully, had been done in accordance with sections 3 to 6 of the Standard and Code, and that the information contained on the certificate was correct. The information on the certificate was false or misleading because:

i. the defects with the work meant it did not comply with the Standard or Code

ii. the work was classed as low risk when it was general risk

iii. Mr Watkins only became a certifying gasfitter and able to issue gas certificates on 11 May 2022, but backdated the certificate to 4 September 2021 to be within the 20-working day timeframe for issuing a certificate under the Regulations.

j. Mr Watkins admitted carrying out the work and issuing the gas certificate after he obtained his registration as a certifying gasfitter. He also accepted that the work was non-compliant.

3. The Board was satisfied that the facts in the agreed summary of facts meant that Mr Watkins had committed disciplinary offences under section 89(a)(i) and 89(f) of the Plumbers, Gasfitters, and Drainlayers Act 2006 (**Act**).

Penalty and costs submissions

4. On behalf of the investigator, Ms Mok submitted that the principles and purposes of disciplinary proceedings were well-established. They were to protect the public and to maintain proper industry standards. She submitted that the principles that were relevant to the assessment of penalty in disciplinary proceedings were the need to ensure rehabilitation, the importance of treating practitioners consistently where possible, and the need to impose the least severe penalty appropriate to ensure the principles and purposes of the disciplinary proceeding were met.

5. Ms Mok submitted that Mr Watkins' offending was serious as the issues with the work were significant and caused a high risk of harm to people and property. She referred in particular to the cooker installed in the sleeping space in the converted garage. She submitted there was a risk of incomplete combustion as a result of the defects with the work and the release of carbon monoxide into the sleeping space could have led to poisoning of the occupants. She submitted that this made the installation unsafe, but there were multiple other issues with the work as well.

6. Ms Mok submitted that Mr Watkins failed to inform his supervisor, Mr C Watkins, about the work and he was therefore not supervised while carrying out the work. She submitted that this increased the risk of non-compliant work and meant a gas certificate could not be issued upon completion of the work. She submitted that a gas certificate is a formal and legal declaration that is relied on by homeowners to assure them that their gas installation is compliant and safe to use. Mr Watkins issued a gas certificate some time later and backdated it. The certificate also certified that the installation was compliant and safe when it was not.

7. Ms Mok submitted that Mr Watkins went to the property a second time to remediate the work but still failed to ensure all of the work was rectified so that it was compliant. He also failed to issue a gas certificate for this work. She submitted that this demonstrated a serious lack of understanding of the compliance requirements for gasfitting work and was indicative of a serious competence issue.

8. Ms Mok noted that Mr Watkins runs his own gasfitting company and submitted that a period of suspension of his gasfitting registration was necessary until he completed further training or a competence programme. She submitted such an order was

appropriate to ensure the protection of the public and to maintain proper industry standards given the extent of the issues with the work and Mr Watkins conduct in relation to the gas certificate.

9. Ms Mok submitted that a moderate fine in the vicinity of $5,000 to $6,000 was also appropriate in addition to the suspension to ensure deterrence both for Mr Watkins and more generally.

10. Ms Mok referred the Board to its previous decisions in the cases of *Pidgeon v Brown* (2023/14), *Thomas v Hansen* (2021/20), and *Radovich v Kench* (2022/6). Mr Brown, a Tradesman Gasfitter, pleaded guilty in relation to the installation of a non-room-sealed gas water heater in a property and using his supervisor's details to issue a gas certificate for the work. Mr Brown's registration was suspended for six months and he was fined $4,000. Ms Mok submitted Mr Watkins conduct was comparable to Mr Brown's. In both cases the gas certificates contained a number of errors and wrongly certified that the work had been done lawfully and complied with the Standard. She submitted that while Mr Watkins had not used his supervisor's details on the certificate, he had backdated it. Ms Mok submitted that the defects with Mr Watkins work were more extensive than in the *Brown* case, but the same risk had arisen in both cases as a result of the defects. Ms Mok submitted that the suspension in Mr Brown's case supported the investigator's position that suspension was appropriate in Mr Watkin's case.

11. In *Hansen*, Mr Hansen pleaded guilty to non-compliant gasfitting work and issuing a false or misleading return in relation to a space heater and flue system. The flue was installed in a manner contrary to the manufacturer's instructions with less than the minimum clearance from the soffit and caused damage to the wall. The gas certificate stated the work had complied with the manufacturer's instructions and the relevant standards. Mr Hansen also failed to retain a copy of the gas certificate for the required 7 year period. Taking into account Mr Hansen's previous disciplinary convictions, his gasfitting practising licence was suspended until he completed a competence programme. Ms Mok submitted Mr Watkins' offending was more serious than Mr Hansen's as the defects were more extensive and gave rise to a serious risk of harm. She submitted that a period of suspension to undertake training was therefore warranted in Mr Watkins' case given his previous disciplinary conviction and the significant issues with his work.

12. Finally, in *Kench*, Mr Kench pleaded guilty to negligent or incompetent gasfitting and issuing a false or misleading return in relation to the replacement of a burst gas hot water cylinder and connection to a gas flue. The lack of ventilation in the cupboard for the cylinder risked carbon monoxide being produced and the cupboard overheating. There were also inadequate clearances around the flue risking heat transferring to combustible surfaces. The gas certificate stated that installation was safe and compliant. The Board considered Mr Kench's offending was serious and adopted a starting point for the fine of $6,000. Ms Mok submitted Mr Watkins' offending was

more serious as there were more defects in his case and he had also backdated the gas certificate in addition to wrongly claiming the installation was safe and compliant. Mr Watkins also had a previous disciplinary conviction while Mr Kench had an unblemished disciplinary history.

13. With respect to aggravating factors personal to Mr Watkins, Ms Mok submitted that he had a previous disciplinary conviction for negligent or incompetent gasfitting from 2021. In that case, Mr Watkins had altered a gas pipe to allow the installation of a new gas meter at a residential property. The work he undertook resulted in a fire in which he was injured requiring hospital treatment. The Board considered Mr Watkins' conduct was serious and he was fined $3,500 which was reduced from the starting point of $5,000. Ms Mok submitted that it was concerning that Mr Watkins was appearing before the Board for a second time for negligent or incompetent gasfitting in a relatively short timeframe. She submitted that it did suggest there was a wider issue with Mr Watkins' competence.

14. Ms Mok recognised that Mr Watkins has pleaded guilty to the charges against him, but submitted that he had not done so until very late after the investigator had filed their evidence and the matter was set for a formal proof hearing. She submitted that in the circumstances, any credit for his guilty plea should relate only to the issue of any fine or the amount of the fine and should not have any bearing on the issue of a suspension.

15. Ms Mok submitted that under section 107 of the Act, the Board could require Mr Watkins to pay a contribution towards the costs and expenses of the investigation, prosecution, and hearing. She submitted that the usual starting point for an order of costs was half of the costs and it was for the Board in its discretion to decide whether that figure should be increased or decreased. She accepted that it was open to the Board to recognise Mr Watkins guilty plea, but submitted any reduction should recognise that the investigator had fully prepared for a hearing in this matter before that plea was entered.

16. In his submissions on penalty, Mr Watkins accepted the investigator's submission that suspension of his gasfitting licence was appropriate while he completed training. He also accepted the submission that he should pay a fine as well given the severity of the defects with the work. He accepted that such a penalty was appropriate in all the circumstances.

17. Mr Watkins submitted that he was not currently working and had recently gone on to a benefit while he recovered from an injury and would begin looking for employment once he had recovered. He said he had had a period off work when he had used all his savings. He also submitted that he owed some money in taxes.

18. Mr Watkins submitted that he looked forward to doing some training and upskilling in the areas where he needed it. He submitted that it was important to stay up to date with products and practices in order to ensure his work was safe. He described

engaging in applicable training after his previous disciplinary conviction and submitted that, in the future, he wanted to make sure he kept upskilling.

19. Mr Watkins submitted that he was going to look for employment with a company that would enable him to diversify and broaden his skills. He submitted that he had previously worked predominantly on domestic work and he would like to do a wider range of gasfitting work and work on the plumbing side as well.

20. Mr Watkins described taking over his father's company and submitted that not having his father so closely involved with his work may have contributed to the failings in this case. He submitted that he felt he needed more help with planning the job and that it had also been the only one he had done on a minor dwelling. He accepted that he had not done enough research to ensure he fully understood all of the compliance obligations in relation to the job.

Decision on penalty

21. When it comes to imposing penalties in disciplinary cases, the Board's primary considerations are the need to protect the health and safety of the public and maintain industry standards. Any disciplinary penalty should aim to ensure the competency of the practitioner by holding them to account for their offending, assist with their rehabilitation, and deter them and other practitioners from disciplinary offending.

22. Having considered the parties' submissions and the facts of the case, the Board determined that Mr Watkins' offending was very high in terms of seriousness. The Board accepted the investigator's submissions as to the nature and extent of the defects with Mr Watkins' work and the seriousness of those defects. The Board considered that there had been a real risk of very serious consequences in this case and Mr Watkins' attempts to rectify the work had only partially addressed the concerns. The Board considered that it was to Mr Watkins' credit that he also accepted the investigator's submissions in this respect.

23. The Board accepted that Mr Watkins previous conviction was an aggravating factor and shared the investigator's concern that this was Mr Watkins' second incidence of serious, non-compliant gasfitting work in a short period of time. However, it was in Mr Watkins favour that he had pleaded guilty, albeit late, and accepted responsibility for what he had done. He was also clearly remorseful and accepted the need to undertake training and upskill before he began doing gasfitting work again.

24. The Board considered that the appropriate penalty was suspension of Mr Watkins gasfitting registration and licence until he completed an appropriate course of training. In the circumstances and in light of his submissions to the Board, the Board also supported Mr Watkins stated intention of working for a company once he regained his registration and licence. The Board considered that working with others and having the support and guidance of experienced gasfitters around him would be a significant benefit for Mr Watkins when he gets back into carrying out gasfitting.

Costs

25. Section 107 of the Act provides that, in addition to any penalty imposed, the Board may order a registered person to pay a reasonable sum towards the costs and expenses incidental to the investigation of the complaint, prosecution, and hearing. The Board was provided with a schedule of estimated costs for the investigation, prosecution and hearing amounting to $19,825.67.

26. The Board accepted that Mr Watkins' guilty plea had saved the costs of a full hearing though accepted that the investigator had been put to the full cost of preparation for a hearing because of the lateness of his plea. The Board determined that he should pay $8,900 towards costs which was around 45% of the total costs.

Publication

27. In accordance with the requirements of the Act, the Board ordered that details of the action taken against Mr Watkins should be recorded on the register of plumbers, gasfitters, and drainlayers in the usual way. Any other publication of the Board's orders would be at the discretion of the Registrar of Plumbers, Gasfitters and Drainlayers (**Registrar**).

Board orders

28. Being satisfied that Mr Watkins was guilty of a disciplinary offence under sections 89(a)(i) and 89(f) of the Act, the Board made the following orders:

    a. Pursuant to sections 106(1)(b)(ii) and 106(2)(b) of the Act, Mr Watkins' gasfitting registration and licence be suspended until he completed a competence programme in gasfitting.

    b. Pursuant to section 107 of the Act, Mr Watkins pay $8,900 towards the costs of the investigation, prosecution, and hearing.

    c. Pursuant to section 74(1)(c)(viii) of the Act, details of the Board's orders in respect of Mr Watkins be published on the register.

Appeal

29. If Mr Watkins is dissatisfied with the whole or any part of this decision or these orders, he may appeal to the District Court under section 162(1)(f) of the Act. Any appeal must

be brought within 20 working days from the date on which this formal written decision is received, or within any other timeframe the District Court may allow.

Dated 10 February 2025

Signed



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Diana Kuhtz-Covich
Chair
Plumbers, Gasfitters and Drainlayers Board