Before the Electrical Workers Registration Board SUBJECT TO SUPPRESSION ORDERS

	CE No. 23050
In the matter of:	A disciplinary hearing before the Electrical Workers Registration Board
Between:	The Ministry of Business Innovation and Employment
	And
	[OMITTED] (the Respondent)

Decision of the Board in Respect of the Conduct of an Electrical Worker
Under section 147G of the Electricity Act 1992

Hearing Location:	New Plymouth
Hearing Type:	In Person with remote attendances by parties
Hearing Date:	21 May 2026
Decision Date:	21 May 2026

Board Members Present:

Mr T Wiseman, Registered Inspector (Presiding)
Ms S Cameron, Registered Electrician
Mr J Hutton, Registered Inspector
Ms L Wright, Barrister
Mr T Tan, Barrister
Mr S Rogers, Registered Electrician

Appearances: Mr Millar - Counsel for the Investigator, the Respondent (self-represented)

Procedure:

The matter was considered by the Electrical Workers Registration Board (the Board) under the provisions of Part 11 of the Electricity Act 1992 (the Act), the Electricity (Safety) Regulations 2010 (the Regulations) and the Board's Disciplinary Hearing Rules.

Board Decision:

The Investigator has not proven that the Respondent committed the disciplinary offences set out in the Notice of Proceeding (as outlined below). The Respondent **has not** committed a disciplinary offence.

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Summary of the Board's Decision

[1] The Respondent was charged with offences relating to carrying out prescribed electrical work (PEW). The Respondent was also charged with failing to issue a return within the prescribed period.

[2] The Respondent did not dispute that he had committed the disciplinary offences. However, the Board determined that the offences had not been proven on the balance of probabilities. This was because the Respondent was not the person required to undertake or confirm that the testing had been undertaken or to complete the return, in accordance with the Regulations.

Introduction

[3] The hearing resulted from a complaint about the conduct of the Respondent and a report under s147G(1) of the Act from the Investigator that the complaint should be considered by the Board.

[4] The Respondent was served with a notice setting out the alleged disciplinary offences the Investigator reported should be considered by the Board.

[5] Prior to the hearing, the Respondent and the Board were provided with all the documents the Investigator had in his power or possession.

[6] The Respondent is a Distribution Line Mechanic. The Board heard evidence that the Respondent was part of a team of electrical workers undertaking prescribed electrical work in [OMITTED] on or around 11 May 2025. The work involved the disconnection, extension, and reconnection of low-voltage overhead mains conductors supplying a property. During reconnection, a phase-to-neutral transposition occurred on the low-voltage network. As a result, reverse polarity was supplied to a downstream commercial property. The reverse polarity caused damage to electrical appliances and equipment at the property.

Function of Disciplinary Action

[7] The common understanding of the purpose of professional discipline is to uphold the integrity of the profession. The focus is not punishment, but the protection of the public, the maintenance of public confidence and the enforcement of high standards of propriety and professional conduct. Those purposes were reiterated by the Supreme Court of the United Kingdom in *R v Institute of Chartered Accountants in England and Wales*[1] and in New Zealand in *Dentice v Valuers Registration Board*[2].

[8] Disciplinary action under the Act is not designed to redress issues or disputes between a complainant and a respondent. In *McLanahan and Tan v The New Zealand Registered Architects Board,*[3] Collins J. noted that:

> *"… the disciplinary process does not exist to appease those who are dissatisfied … . The disciplinary process … exists to ensure professional standards are maintained in order to protect clients, the profession and the broader community."*

[9] The Board can only inquire into "the conduct of an electrical worker" with respect to the grounds for discipline set out in s143 of the Act. It does not have any jurisdiction over contractual matters.

Procedure

[10] The matter was to proceed by way of an Agreed Summary of Facts. However, the Board questioned the Respondent and the Technical Advisor at length, to ascertain whether or not the offences, as charged had been committed by the Respondent.

Evidence

[11] The Board must be satisfied on the balance of probabilities that the disciplinary offences alleged have been committed.[4] The Board notes, as regards evidence in proceedings before it, that the provisions of s147W of the Act apply. This section states:

> *In all proceedings under this Part, the Board may, subject to section 156, receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter before it, whether or not it would be admissible as evidence in a court of law.*

[12] The general rule is that all facts in issue, or relevant to the issue in a case, must be proved by evidence. This is a particularly important rule for the purpose of these proceedings.

[13] The alleged disciplinary offences were outlined in the notice of proceeding as follows:

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[1] *R v Institute of Chartered Accountants in England and Wales* [2011] UKSC 1, 19 January 2011.
[2] [1992] 1 NZLR 720 at p 724
[3] [2016] HZHC 2276 at para 164
[4] *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1

First Offence Alleged Disciplinary Offence

1. On or around 11 May 2025 at [OMITTED], the Respondent has negligently created a risk of serious harm to any person, or a risk of significant property damage, through having carried out or caused to be carried out prescribed electrical work being an offence under section 143(b)(ii) of the Act, IN THAT, He,

▪ Failed to perform electrical testing of low voltage overhead mains conductors supplying the Property prior to reconnection to the electricity supply which resulted in a transposition of the (red) phase conductor, and the neutral conductor supplying a Property, and subsequent damage to electrical equipment at the Property

Or in the Alternative

2. On or around 11 May 2025 at [OMITTED], the Respondent has carried out or caused to be carried out prescribed electrical work in a negligent or incompetent manner being an offence under section 143(a)(i) of the Act, IN THAT, He

• Failed to perform electrical testing of low voltage overhead mains conductors supplying the Property prior to reconnection to the electricity supply which resulted in a transposition of the (red) phase conductor, and the neutral conductor supplying a Property, and subsequent damage to electrical equipment at the Property.

Or in the Alternative

3. On or around 11 May 2025 at [OMITTED], the Respondent has carried out or caused to be carried out prescribed electrical work in a manner contrary to any enactment relating to prescribed electrical work that was in force at the time the work was done being an offence under section 143(a)(ii) of the Act, IN THAT, He

• Failed to perform electrical testing of low voltage overhead mains conductors supplying the Property prior to reconnection to the electricity supply which resulted in a transposition of the (red) phase conductor, and the neutral conductor supplying a Property, and subsequent damage to electrical equipment at the Property.in breach of regulations 59, 63, 73A and 74A of the Electricity (Safety) Regulations 2010.

Second Alleged Disciplinary Offence

On or around 11 May 2025 at [OMITTED], the Respondent has failed to provide a return being an offence under section 143(f) of the Act, IN THAT, He

• Failed to issue an Electrical Safety Certificate within the maximum permissible timeframes following the reconnection of an electricity supply to any fitting that supplies an installation or a part installation with electricity.

[14] As the Respondent was working with a team of workers, including a supervisor, the Board sought to understand why the Respondent was responsible for the testing as outlined in the Notice of Proceeding and completion of the Electrical Safety Certificate.

[15] The investigator relied on regulation 73A of the Regulations to support the position that the Respondent was required to undertake testing.

[16] Regulation 73A states as follows:

> 73A **Before connecting installations to power supply**
> (1) Before connecting to a power supply a low or extra-low voltage installation or part installation on which prescribed electrical work has been done, the person doing the connection must—
>
> > **(a)** be satisfied that the installation or part installation is safe to connect; and
> > **(b)** be satisfied that the testing required by these regulations has been done; and
> > **(c)** if a certificate of compliance is required for the work, either issue or sight a certificate of compliance issued no earlier than 6 months before the installation or part installation is connected; and
> > **(d)** if the work is required to be inspected, either inspect the work and complete a record of inspection or sight a record of inspection given by another person no earlier than 6 months before the installation or part installation is connected; and
> > **(da)** if the work is required to be inspected and a certificate of compliance is required for the work, attach the certificate of compliance or a copy of the certificate of compliance to the record of inspection; and
> > **(e)** in the case of a low voltage installation or part installation, do all of the following:
> > **(i)** ensure that the polarity and phase rotation of the supply are correct:
> > **(ii)** ensure that the protection of the supply is correctly rated:
> > **(iii)** ensure that the installation or part installation to be connected is compatible with the supply system:
> > **(iv)** if the supply is from a MEN system, verify that there is a main earthing system.
>
> (2) Before a person connects a high voltage installation or part installation to a power supply, the person must comply with the requirements of regulation 38(2) as if references in that regulation to works were references to the installation or part installation.
>
> (3) If the person who connects an installation or part installation has not done the testing required by these regulations personally, the person must sight documentation, signed by the person who did the tests, that sets out what tests were carried out and what the results were.
>
> (4) A person who undertakes the connection of an installation or part installation is entitled (if acting in good faith) to rely on the veracity of any certificates of compliance relating to prescribed electrical work done on the installation or part installation, and on the veracity of any equivalent certificate issued under these regulations before 1 July 2013.

> (5) **To avoid doubt, in this regulation connection refers to the prescribed electrical work that is the final step that will allow electricity to flow in the installation or part installation on which other prescribed electrical work has been done** [emphasis added]**.**

[17] For the purpose of regulation 73A the term 'connection' has a very specific meaning as identified in bold above. Connection is, the PEW that is the final step that allows electricity to flow.

[18] Both the Respondent and the Technical Advisor agreed that there was further work to be done, following the completion of the Respondent's work, to allow electricity to flow. The Respondent in a general sense 'connected' the fuses to the fly arm. Another worker connected the network lines into the fuses. The Respondent had no involvement in the switching procedure. There was a supervisor and at least one other senior worker on site. The supervisor checked the work from ground level. The Respondent's evidence was that his supervisor told him that no further testing was required.

[19] The Respondent stated that he did not give the direction for the circuit to be energised. The Respondent's evidence was that the supervisor was responsible for initiating the livening. That being the case, the Respondent was not required to comply with regulation 73A as this regulation sets out the requirements to follow prior to undertaking connection work that will allow electricity to flow. While the work being undertaken by the Respondent may have fallen into a general description of connection work, the Board must apply the specific definition of 'connection' found in regulation 73A.

[20] The person authorising or undertaking the livening connection was required to comply with regulation 73A. That person must be satisfied that the required testing has been undertaken and the work is safe. That was not the Respondent. The function that livened the work was the reconnection of the high voltage. This occurred upstream from the work being undertaken by the Respondent. It is the livening of the work that created the risk.

Board Decision

[21] The first charge is charged in 3 alternatives. The Board must consider whether any of the alternatives of the charge have been committed, commencing its consideration with the most serious alternative charge. The Board carefully considered the evidence given under affirmation by the Respondent and the Technical Advisor as well as the submissions made by Counsel for the Investigator.

[22] The Board found that as the Respondent was not the worker required to undertake the testing prescribed by regulation 73A, the first two alternatives of first charge were not made out on the evidence.

[23] The third alternative of the first charge makes reference to two other regulations. The Board considered whether the Respondent was required to comply with those regulations.

[24] Regulations 64 and 74 apply to installations. Section 2 of the Act defines 'electrical installation' as follows:

> electrical installation—
>
> (a) means—
>
> (i) in relation to a property with a point of supply, all fittings beyond the point of supply that form part of a system that is used to convey electricity to a point of consumption, or used to generate or store electricity; and
>
> (ii) in relation to a property without a point of supply, all fittings that form part of a system that is used to convey electricity to a point of consumption, or used to generate or store electricity; but
>
> (b) **does not include any of the following** [emphasis added]:
>
> (i) an electrical appliance:
>
> (ii) any fittings that are owned or operated by an electricity generator and that are used, designed, or intended for use in or in association with the generation of electricity, or used to convey electricity from a source of generation to distribution or transmission lines:
>
> (iii) any fittings that are used, designed, or intended for use in or in association with the conversion, transformation, or conveyance of electricity by distribution or transmission lines

[25] The work completed by the Respondent does not fall within the definition of installation. It is 'works'. Accordingly regulations 64 and 74 do not apply and the prosecutor has not proved that the Respondent failed to comply with the cited regulations.

[26] Having found the particular for each alternative charge was not proven it follows that the Board is not satisfied that the work done by the Respondent created a risk of serious harm or serious property damage or that the work was completed negligently or incompetently. The Board is also not satisfied that the Respondent's work was contrary to an enactment.

[27] The second alleged disciplinary offence alleged that the Respondent did not complete an Electrical Safety Certificate (ESC) within the required timeframe. The Respondent did complete an ESC for the neighbouring property but this does not mean that the Respondent was required to complete an ESC for the property referred to in the Notice of Proceeding. This would not be a permissible inference to draw. The person that does the connection is responsible for completing the ESC. The Respondent did not perform the connection in accordance with how that term is

defined in regulation 73A(5). The Respondent was therefore not responsible for completing the certification for this Property.

Penalty, Costs and Publication

[28] Having found the Respondent has not committed any disciplinary offences. The Board does not need to consider penalty and costs.

<u>Publication</u>

[29] Within New Zealand, there is a principle of open justice and open reporting which is enshrined in the Bill of Rights Act 1990.[5] The Criminal Procedure Act 2011 sets out grounds for suppression within the criminal jurisdiction.[6] Within the disciplinary hearing jurisdiction, the courts have stated that the provisions in the Criminal Procedure Act do not apply but can be instructive.[7] The High Court provided guidance as to the types of factors to be taken into consideration in *N v Professional Conduct Committee of Medical Council*.[8]

[30] The Respondent sought name suppression on the grounds of the impact on his employment. The Board also took into account that the charges had not been found proven. The Board determined that name suppression was appropriate on the grounds that publication would cause hardship to the Respondent and that was not warranted in the circumstances.

[31] In accordance with the principles of open justice, this decision will be published and a general article about this matter will also be published in the Electron. However the Board finds that the public interest can be met without naming the Respondent. The Respondent's name and identifying particulars are to be suppressed.

Right of Appeal

[32] The right to appeal Board decisions is provided for in s147ZA and s147ZB of the Act.[i]

Signed and dated this 2nd day of July 2026.

Mr T Wiseman
Presiding Member

[5] Section 14 of the Act
[6] Refer sections 200 and 202 of the Criminal Procedure Act
[7] *N v Professional Conduct Committee of Medical Council* [2014] NZAR 350
[8] ibid

[i] ***Section 147ZA Appeals***

(1) A person who is dissatisfied with the whole or any part of any of the following decisions, directions, or orders may appeal to the District Court against the decision, direction, or order:

(e) any decision, direction, or order under any of sections 108, 109, 120, 133, 137, and 153 or Part 11 (except section 147C).

Section 147ZB Time for lodging appeal

An appeal under section 147ZA must be brought within—

(a) 20 working days after notice of the decision, direction, or order was given to, or served on, the appellant; or

(b) any further time that the District Court may allow on application made before or after the expiration of that period.