

**APPEAL NUMBER: NOAA 24-07**

IN THE MATTER OF AN APPEAL UNDER PART IV OF O. REG. 187/09 MADE UNDER  
THE *SAFETY AND CONSUMER STATUTES ADMINISTRATION ACT, 1996*, S.O. 1996, C. 19

BETWEEN:

**CEDAR BEACH CAMP RESORT INC.**

Appellant

- and -

**GENERAL MANAGER, EASTERN REGION  
ELECTRICAL SAFETY AUTHORITY**

Respondent

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**Decision of the Review Panel**

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Review Panel: Richard E. Austin

Hearing Dates: In writing

Appeal Number: NOAA 24-07

**For the Appellant**

Self-represented

**For the Respondent**

Maureen Salama

**Independent Legal Counsel**

Dan Goudge

## I. INTRODUCTION

1. The Appellant brings this appeal seeking to overturn an Administrative Penalty Order (the “APO”) imposing two administrative penalties in the amounts of \$5,000 and \$3,000, respectively, pursuant to s. 113.18.1(1) of the *Electricity Act, 1998*, S.O. 1998 c. 15, Sch. A (the “Act”).
2. This appeal hearing was conducted by the Review Panel in writing, pursuant to rule 19.3 of the Electrical Safety Authority’s (“ESA”) *Rules of Procedure for Reviews and Appeals* (the “Rules”).

## II. BACKGROUND FACTS

### *(a) The Appellant and the Resort*

3. The Appellant is a corporation incorporated under the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16. As of April 19, 2024, the Appellant had two directors, Yiyu Ye (who also goes by Frank Ye) and Ling Zhang. The Appellant’s registered head office is located at 881 Kawartha Drive, Peterborough, Ontario.
4. The Appellant operates a seasonal campground known as Cedar Beach Camp Resort (the “Resort”), which is located at 43 Cederest Lane, Eganville, Ontario. The Resort is owned by Mr. Ye.

### *(b) The Inspection of the Resort*

5. On September 11, 2023, the Respondent received an anonymous call advising that there were issues with the electrical service at the Resort, including an electrical subpanel overheating and trailers at the Resort tripping the breakers. The caller also stated that they believed that electrical work at the Resort had been completed by unlicensed contractors and without a permit.
6. On September 14, 2023, an Inspector from the Respondent attended at the Resort. While the Inspector could not access the Resort because it was gated and closed, the Inspector was nonetheless able to observe that:
  - a. an electrical panel at the Resort had been damaged as a result of the deterioration of the panel’s protective enclosure;
  - b. non-water approved cables were exposed to outdoor elements; and
  - c. direct buried conductors, cables, and raceways found between panels and trailers did not meet minimum coverage standards under the Electrical Safety Code (the “Code”).
7. The Inspector also found that an electrical panel outside the entrance to the Resort appeared to be new, and a cable attached to that panel was stamped with the date “04/22”. The Inspector subsequently determined that no Notification of Work had been obtained for any

electrical work at the Resort, including the installation of a new electrical panel at the entrance.

8. The Inspector also spoke to the maintenance staff at the Resort, asking to be put in contact with a supervisor. However, the Inspector was advised that a manager was not available.
9. The Inspector subsequently left his contact information with the maintenance staff member, and asked that it be passed along to the Resort's management.

***(c) A Working Without Electrical Inspection Notice is Issued for the Resort***

10. On September 14, 2023, a Working Without Electrical Inspection notice (the “**Defect Notice**”) was issued by the Respondent and sent to the Appellant at the address for the Resort.
11. The Defect Notice listed the following seven defects, which the Notice stated had to be corrected by September 28, 2023:
  - a. Areas of the Resort were not accessible for inspection;
  - b. Electrical work was performed at the Resort without filing a notification;
  - c. Panel fillers were not included in the unused opening in the breaker panel board, as required;
  - d. Direct buried conductors, cables or raceways did not meet the minimum cover requirements of Table 53 or have mechanical protection in accordance with the Code;
  - e. Electrical equipment installed outdoors was not of the weatherproof type listed in Table 65 or installed in a properly maintained weatherproof enclosure;
  - f. Service panels were not repaired or replaced following damage resulting from exposure to water; and
  - g. Dry type cable connectors were used in locations exposed to weather.

12. On September 28, 2023, the Inspector received calls from Mr. Ye, the owner and a director of the Resort, and an individual named “Heather”. The Inspector eventually spoke with Heather on October 23, 2023, who informed the Inspector that she was the manager of the Resort, and that the Inspector should speak with Mr. Ye directly.
13. After several attempts to contact him, the Inspector spoke with Mr. Ye on October 24, 2023. Mr. Ye advised that he had not received the Defect Notice, but that he would contact the ESA directly to obtain a copy of it.

***(d) An Order Is Issued Under s. 113(11) of the Act***

14. Following the Inspector's call with Mr. Ye, neither Mr. Ye nor the Appellant took any steps to obtain a copy of the Defect Notice or correct the defects identified in it.

15. As a result, on November 22, 2023, the Respondent issued an Order pursuant to s. 113(11) of the *Act* (the “**Defect Order**”), which provided the Appellant with 15 days to correct the defects listed in the Defect Notice. The Defect Order further stated that if the Appellant did not comply with the Order, an APO may be issued against the Appellant, pursuant to which a maximum penalty of \$10,000 may be levied.
16. The Defect Order was first sent by courier to the address for the Resort, however, it was returned undelivered on December 5, 2023. On December 20, 2023, a copy of the Defect Order and the Defect Notice were sent to the Appellant via email.
17. On February 5, 2024, a further copy of the Defect Notice was sent by courier to the Appellant’s registered head office. This was followed by a copy of the Defect Order being sent to the Appellant’s registered head office on March 7, 2024.

*(e) The APO Is Issued*

18. After the Defect Notice and the Defect Order were delivered to the Appellant via email and courier to its registered head office, no steps were taken by the Appellant to remedy the defects set out in the Defect Notice.
19. As a result, on May 2, 2024, the Respondent issued a Notice of Intent to Issue an Administrative Penalty Order (the “**APO Notice**”). The APO Notice was served on the Appellant via email on May 9, 2024, and advised the Appellant that the Respondent intended to issue two administrative penalties totalling \$8,000, with the first penalty relating to the contravention of the Defect Order between January 1 and April 23, 2024, and the second penalty relating to the Appellant’s failure to file a Notification of Work prior to performing electrical installation work at the Resort between April 1, 2022 and September 14, 2023. The APO Notice further informed the Appellant that it was entitled to provide a written response regarding these alleged contraventions within 15 days.
20. The Appellant responded on May 23, 2024, stating that when the Inspector attended at the Resort in September 2023, it was closed for the season, and that the Inspector had been advised to return in May 2024 once the Resort re-opened. The Appellant further stated that the electrical power at the Resort had been turned off while the Resort was closed for the season, and that there was therefore no safety issues to be concerned about. The Appellant added that all electrical work done at the Resort over the preceding several years had been performed by Rondeau Electric in Pembroke, Ontario, and had passed inspection. The Appellant concluded by inviting the Inspector to re-attend at the Resort, as the Resort had re-opened earlier that month.
21. On June 3, 2024, two different Inspectors from the Respondent attempted to contact Mr. Ye, but were unable to do so.
22. On June 4, 2024, the Respondent issued the APO. The APO lists two contraventions of the *Act*:
  - a. That between January 1 and April 23, 2024, the Appellant contravened an order issued by the Respondent under s. 113(11) of the *Act* (i.e. the Defect Order); and

- b. That between April 1, 2022 and September 14, 2023, the Appellant failed to file with the Respondent a Notification of Work prior to conducting electrical installation work at the Resort, contrary to rule 2-004(1)(a) of the Code.
23. The APO assessed penalties of \$5,000 and \$3,000, respectively, for the two contraventions.
24. The APO was subsequently served on the Appellant via email on June 6, 2024.

***(c) The Appellant Appeals the APO and the Defects Are Corrected***

25. The Appellant filed a Notice of Appeal to Review Panel on July 26, 2024. The grounds for appeal assert that the Appellant had informed the Inspector when he first attended that the Resort was closed for the season, and that the Appellant had invited the Inspector to re-attend in early April 2024. The Notice of Appeal further states that the Appellant had been trying to get the Inspector to re-attend at the Resort, but that the Inspector only did so the previous Friday.
26. In fact, an Inspector had attended at the Resort on July 19, 2024, and found that the defects listed in the Defect Order had not been remedied. The Inspector then attended again on August 1, 2024, and found that the defects had still not been corrected.
27. On August 19, 2024, the Appellant obtained a Notification of Work to correct the deficiencies listed in the Defect Order. The Respondent subsequently confirmed that the deficiencies had been corrected on September 25, 2024.

**III. LEGISLATIVE SCHEME**

28. With respect to liability, s. 113(11) of the *Act*, provides the Respondent with the authority to issue orders that it “considers necessary or advisable for the safety of persons or the protection of property and, in any such order or after having made it, the [Respondent] may order any person to cease and desist from doing anything intended or likely to interfere with the terms of the order.” Failure to comply with an order made un s. 113(11) of the *Act* is an offence pursuant to s. 113(12)(c) and s. 113.20(1)(b) of the *Act*, and is punishable by fines up to \$1,000,000 for a corporation.
29. Moreover, s. 2 of O. Reg. 164/99: *Electrical Safety Code*, provides that “every act or omission in connection with the generation, transmission, distribution, retain, or use of electricity in Ontario must be done or made in compliance with the Electrical Safety Code.” Among other things, the Code requires, pursuant to Rule 2-0004, that anyone completing any electrical work in Ontario must obtain a permit from the ESA’s inspection department before engaging in electrical installations, alterations, repairs, or the extension of any electrical equipment.
30. With respect to administrative penalties imposed by the Respondent, the key provision is s. 113.18.1 of the *Act*, which states:

113.18.1 (1) A Director may, by order, impose an administrative penalty against a person in accordance with this section and the regulations made

by the Minister if the Director is satisfied that the person has contravened or is contravening,

- (a) a prescribed provision of this Part or the regulations;
- (b) a restriction, limitation or condition imposed by a Director in respect of a prescribed authorization; or
- (c) a prescribed order of the Authority.

...

(3) An administrative penalty may be imposed under this section for one or more of the following purposes:

- 1. To ensure compliance with this Part or the regulations.
- 2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of a contravention described in subsection (1).

...

(4) The amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations made by the Minister, but the amount of the penalty shall not exceed \$10,000. [Emphasis added].

31. Further detail on the administrative penalty regime is set out in the *Administrative Penalties* regulations, O. Reg. 12/23: *Administrative Penalties*, which provides as follows:

**6.** For the purposes of subsection 113.18.1 (4) of the Act, a Director shall determine the amount of an administrative penalty for a contravention prescribed in section 1 of this Regulation in accordance with the following rules:

- 1. The Director shall determine whether, in the Director's opinion, the contravention had a major, moderate or minor adverse effect, or the potential to have such an adverse effect, on electrical safety.
- 2. The range for the administrative penalty is set out in Column 2 of the Table to this section opposite the determination set out in Column 1 as described in paragraph 1.
- 3. The amount of the administrative penalty for the contravention is an amount selected by the Director from within the range described in paragraph 2 after considering the following criteria:
  - i. Whether the person who committed the contravention has previously been subject to enforcement actions under Part VIII of the Act or its regulations for contraventions of a similar nature.
  - ii. The extent of the harm, or of the degree of risk of harm, to others as a result of the contravention.

- iii. Whether the contravention was deliberate.
- iv. Whether the contravention was repeated or continuous.
- v. The length of time during which the contravention continued.
- vi. Whether the person who committed the contravention derived any economic benefit from the contravention.

TABLE  
RANGE OF ADMINISTRATIVE PENALTIES

Column 1 Severity of adverse effect or potential adverse effect	Column 2 Range
Major	From \$5,001 to \$10,000
Moderate	From \$1,001 to \$5,000
Minor	From \$100 to \$1,000

#### IV. ISSUES TO BE DECIDED

32. The issues to be decided on this appeal are:

- (i) whether the ESA has proven on a balance of probabilities that the Appellant committed the contraventions listed in the APO; and
- (ii) if so, whether the penalties of \$5,000 and \$3,000, respectively, for each of those contraventions should be confirmed or varied to be a different amount.

33. As was held in *Soheil Sobat v. Director Licensing, Electrical Safety Authority*,<sup>1</sup> in the context of another appeal from an Administrative Penalty Order, this appeal hearing before the Review Panel is, in effect, a *de novo* process. That means that this Review Panel must assess for itself the correct interpretation and application of the relevant statutory provisions, rather than deferring to the Respondent's views or analysis, both with respect to liability and with respect to penalty.

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<sup>1</sup> *Soheil Sobat v. Director Licensing, Electrical Safety Authority*, NOAA-23-05 at paras. 12-14.

## V. **LIABILITY**

### A. **The Appellant's Position**

34. The Appellant provided no submissions in support of its appeal.
35. Moreover, the Notice of Appeal does not deny that the Appellant committed the contraventions found in the APO. Rather, the Notice of Appeal simply states that the Appellant had informed the Inspector that the Resort was closed for the season and that the Appellant had invited the Inspector to re-attend once the Resort re-opened in 2024.

### B. **The Respondent's Position**

36. The Respondent submits that the evidence establishes that the Inspector identified numerous defects when he attended at the Resort in September 2023. These defects were identified in the Defect Notice and the Defect Order, which were provided to the Appellant several times, first by mail at the Resort's address, then via email, and finally via courier to the Appellant's registered head office. Despite this, the Appellant took no steps to correct these defects, as required by the Defect Order, until August 2024, several months after the APO was issued. The Respondent submits that the Appellant's failure to correct the defects identified in the Defect Notice is a breach of the Defect Order, which itself is an order made under s. 113(11) of the *Act*.
37. Further the Respondent submits that the evidence shows that when the Inspector first attended at the Resort, he observed that an electrical panel near the entrance to the Resort had been recently installed. The Inspector further identified that the electrical panel included cables stamped "04/22", suggesting that the panel was installed after April 2022, when those cables were manufactured. The Respondent submits that no Notification of Work was filed by the Appellant for any electrical work at the Resort between April 2022 and September 2023, including for the installation of the electrical panel at the Resort's entrance. The Respondent submits that Appellant's failure to file a Notification of Work for this electrical work is a direct contravention of Rule 2-004 of the Code.
38. The Respondent submits that the Appellant's attempts to have the Inspector re-attend at the Resort once it re-opened in 2024 is no defence to the contraventions found in the APO. The facts remained that (1) the Appellant had failed to comply with the Defect Order by failing to correct the defects identified in the Defect Notice, and (2) that the Appellant had not filed a Notice of Work prior to installing the electrical panel at the entrance to the Resort.

### C. **Decision**

39. I accept the Respondent's position that the Appellant has committed the contraventions set out in the APO.
40. The Appellant has not denied the allegations of the Respondent with regard to the defects set out in the Defect Notice. Further, the fact that the two defects were remedied by Appellant gives credence to the observations made by the ESA's Inspector. The Appellant argued that given the Resort was closed for the season and the electricity turned off there was no safety concerns that needed to be addressed prior to the spring of 2024 when the

Resort reopened and the electrical work was done by Rondeau Electric, presumably a licenced electrician, although there is no evidence to substantiate this. While the fact that the electricity was off may have been a mitigating factor in terms of penalties if the defects were addressed prior to the electricity being turned on when the Resort re-opened in 2024, this work did not occur until several months after the Resort re-opened and the safety of property and persons was put at risk by the failure to address the defects with the electrical panel prior to opening. While the Appellant explained in text messages the situation that made it difficult to respond promptly to the Notice of Defect over the winter, there is no explanation as to why the defects with the panel were not addressed prior to opening in the spring. There is no evidence put forward by the Appellant establishing a Notice of Work was filed prior to the electrical panel being installed at the entrance to the Resort.

41. The Appellant has not challenged the veracity of the Respondent's evidence. While the Inspector came to his conclusions regarding the electrical panel at the entrance to the Resort by observation from a distance, as the evidence has not been contradicted by the Appellant, I can not conclude that it is unreliable, especially given the Appellant's later actions to correct the observed defects. The Respondent's contention that a Notice of Work was not filed with regard to the installation of the panel has also not been challenged and there is not reason not to accept the Respondent's position.
42. Based on my review of the materials submitted, and for the reasons stated above, I am satisfied the Appellant committed the contravention, as alleged.

## VI. PENALTY

### A. The Appellant's Position

43. The Appellant made no submissions regarding the penalties imposed by the APO. As noted above, if the Appellant had acted promptly to address the defects with regard to the electrical panel, this may have been considered a mitigating factor in terms of the penalty of \$5,000.

### B. The Respondent's Position

44. The Respondent submits that the \$5,000 and \$3,000 penalties imposed by the APO for the two contraventions found are both reasonable.
45. The Respondent submits that the Appellant has a demonstrated pattern of ignoring its obligations under the *Act*. Specifically, the Respondent submits that the Appellant ignored the requirement of the Defect Order for months, despite having received multiple copies of the Defect Order and the Defect Notice via mail, email, and courier. In fact, the Respondent submits that the Appellant continued to ignore the Defect Order even after the APO was issued, with Inspectors repeatedly attending at the Resort in July and August 2024, only to find that the defects identified in the Defect Notice had not been corrected.
46. The Respondent further submits that the Appellant's failure to correct the deficiencies listed in the Defect Notice demonstrates a deliberate attempt to circumvent its obligations under the Defect Order and the *Act*. The Respondent argues that this is an aggravating factor that should result in a more substantial penalty.
47. Moreover, the Respondent submits that the Appellant's failure to correct the defects identified in the Defect Notice created a serious risk of harm to the public. The Respondent submits that the Appellant runs the Resort, which is a large campsite where members of the public rely on the Resort's electrical system to provide power to their trailers. The Respondent argues that while the Resort was closed for the winter for a period of the contravention, the Appellant did not ultimately correct the defects identified in the Defect Notice until August 2024, at which point the Resort had been open for the 2024 season for several months.
48. Further, the Respondent submits that the Appellant gained an economic benefit from its contraventions, as the Resort operated for periods of the 2022, 2023 and 2024 seasons while the contraventions persisted.
49. The Respondent submits that there are no mitigating factors that offset these aggravating factors. As a result, the Respondent submits that the penalties of \$5,000 and \$3,000, respectively, for each of the contraventions found in the APO are reasonable in the circumstances and should be confirmed.

### C. Decision

50. I accept the Respondent's position that the penalties of \$5,000 and \$3,000, respectively, for the two contraventions found in the APO should be confirmed.

51. In its Notice of Appeal, the Appellant made no submissions with regard to the penalties imposed by the ESA. As noted above, the fact that the electricity to the Resort was off at the time of the Inspector's visit may have been considered a mitigating factor if the defects were addressed prior to the Resort re-opening in the spring.
52. The ESA has Guidelines regarding the quantum of administrative penalties it can impose that vary with the severity or potential severity of the breach. The Appellant has made no submissions with regard to the quantum of the penalties and while I am of the view that the penalty for the 7 defects noted with regard to the electrical panel and the delay in responding to the Notice of Defect may warrant a larger penalty, I will not vary what the Resopndent has determined is satisfactory. The failure to provide a Notice of Work is significant in my mind as the Notice provides the ESA with the information it needs to be aware of electrical work being done and to send its staff to inspect the work when deemed appropriate. The fine of \$3,000, being the mid-point of the Moderate category, is not unreasonable.

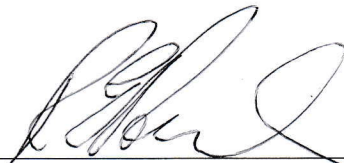
Column 1 Severity of adverse effect or potential adverse effect	Column 2 Range
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Moderate	From \$1,001 to \$5,000
Minor	From \$100 to \$1,000

53. Based on my review of the materials submitted, and for the reasons stated above, I am satisfied the penalties imposed by the APO, in the amounts of \$5,000 and \$3,000, respectively, for each of the contraventions committed by the Appellant should be confirmed.

**VII. ORDER**

54. The Panel confirms the APO in this matter.

Dated this 5th day of November, 2025.



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**Richard E. Austin**