

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Residential Building
Contractor License of Todd A. Harstad
and Eugene T. Harstad d/b/a
Team Central Construction,
License No. 20070626

FINDINGS OF FACT
CONCLUSIONS, AND
RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson on Friday, August 22, 1997, at 2:30 p.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. Philip H.M. Grove, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondents, Todd A. Harstad and Eugene T. Harstad d/b/a Team Central Construction, 3200 State Highway #114, Lot #10, Alexandria, Minnesota 56308. The record closed at the conclusion of the hearing on August 22, 1997.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact David B. Gruenes, Commissioner, 133 East Seventh Street, St. Paul, Minnesota 55101, to ascertain the procedure for filing exceptions or presenting argument.

-

STATEMENT OF ISSUE

The issue in this case is whether Todd A. Harstad and Eugene T. Harstad d/b/a Team Central Construction breached their contract with a homeowner by failing to complete work under the contract and by failing to correct defective work in violation of Minn. Stat. § 326.91, subd. 1(4) and (6) (1996), and whether Respondents failed to

respond to a request for information from the Department in violation of Minn. Stat. § 45.027, subd. 1a (1996), and, if so, whether the Respondents' residential building contractor license should be revoked or suspended or whether the Respondents are otherwise subject to discipline and/or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 - 7, and 326.91 (1996).

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Respondents' residential building contractor license (No. 20070626) lapsed effective March 31, 1997

2. The Notice of and Order for Hearing and Notice of Pre-Hearing Conference in this matter was served upon the Respondents by Federal Express overnight delivery on July 21, 1997 at 3200 State Highway # 114, Lot # 10, Alexandria, Minnesota 56308 and at 3903 Center Avenue N.E., Alexandria, Minnesota 56308. The envelope sent to the 3200 State Highway # 114 address was received on July 22, 1997, at 3:22 p.m. and signed for by "J. Harstad."

3. The Notice of and Order for Hearing and Order to Show Cause served on the Respondents contained the following informational notice:

If Respondents fail to attend or otherwise appear at any pre-hearing conference or settlement conference or the hearing in this matter or fail to comply with any interlocutory order of the judge after having been served with a copy of this Order, Respondents shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondents' residential building contractor license may be revoked or suspended and/or a civil penalty may be imposed against Respondents without further proceedings.

(Emphasis in original.)

3. The Respondents did not file any Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief. The Respondents did not appear at the hearing scheduled for August 22, 1997, or have an appearance made on their behalf. They also did not contact the Administrative Law Judge between August 22, 1997, and the date on which this Report was issued.

4. Because the Respondents failed to appear at the hearing in this matter, they are in default. Pursuant to Minn. R. 1400.6000 (1995), the allegations contained in the Notice of and Order for Hearing and Notice of Pre-Hearing Conference are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Department of Commerce and the Administrative Law Judge have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 326.91 (1994).

2. The Department has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondents, having made no appearance at the hearing, and not requesting any continuance or relief, are in default. Pursuant to Minn. Stat. § 1400.6000, the allegations contained in the Notice of and Order for Hearing and Notice of Pre-Hearing Conference are hereby taken as true.

4. The Respondents have violated Minn. Stat. §§ 45.027, subd. 1a, and 326.91, subds. 1(4) and (6). The Respondents are subject to discipline and/or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 and 7, and 326.91.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Commissioner of Commerce take disciplinary action against the Respondents and impose an appropriate civil penalty.

Dated this 27th day of August, 1997

BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.

NOTICE OF AGENCY DECISION

Under to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

