

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of Jeff Danberg	FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION
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The above matter came on for a hearing before Administrative Law Judge (ALJ) Lucinda Jesson on June 2, 2006, at 9:30 a.m. at the Office of Administrative Hearings, in Minneapolis. The hearing record closed at the conclusion of the proceeding on June 2, 2006.

Michael J. Tostengard, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, MN 55101-2130, represented the Department of Labor and Industry ("the Department"). Jeff Danberg, 9036 15th Avenue South, Bloomington, MN 55425, appeared on his own behalf at the hearing.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Labor and Industry will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommended Decision. 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 Nancy Leppink, Director of Legal Services, Minnesota Department of Labor and Industry, 443 Lafayette Road North, St. Paul, MN 55155 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the

deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes. Under 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.

STATEMENT OF THE ISSUES

1. Did Respondent violate Minn. Stat. § 326.84, subds. 1a and 1b, by engaging in unlicensed residential building contractor activity?

2. Did Respondent violate Minn. Stat. 326.91, subd. 1(4) by collecting monies and not performing any work in breach of contract?

3. Did Respondent violate Minn. Stat. § 326.91, subd. 1(6), by engaging in fraudulent, deceptive, or dishonest practice by accepting monies for residential building contractor activity which he did not perform?

4. Did Respondent violate Minn. Stat. § 326.91, subd. 1(a), by continuing to engage in unlicensed residential building contractor activity after the issuance of a Cease and Desist Order?

5. Is discipline of Respondent in the public interest?

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Mr. Danberg lives at 9036 15th Avenue South, Bloomington, MN 55425. At all times relevant to this proceeding, Respondent was not licensed by the Department in any capacity.

2. On January 19, 1998, the Department issued a Cease and Desist Order prohibiting Respondent from engaging in unlicensed residential building contractor activity.

3. In January 2005, Respondent entered into a remodeling contract with resident Michael Zank of Bloomington, Minnesota, in the amount of \$12,000. Respondent agreed to replace the siding on Mr. Zank's garage and house, replace windows, install a gutter system and perform soffit and fascia repair for that amount.

4. Despite receiving \$10,900 in payment for the job, Respondent performed no work for Mr. Zank. Nor did Respondent refund any of the monies he received to Mr. Zank.

6. In June 2005, Respondent entered into two contracts with Bloomington resident Robert Lund. Under the terms of the first contract, Respondent agreed to roof a house for Mr. Lund in exchange for \$5,740. Under the terms of the second contract, Respondent agreed to replace windows for Mr. Lund in exchange for payment of \$8,509.73.

7. Despite receiving payment from Mr. Lund in the total amount of \$12,085.88, Respondent performed no work for Mr. Lund. Nor did Respondent refund any of the monies he received in payment to Mr. Lund.

8. The Department received a complaint from Michael Zank regarding Respondent in June 2005 and complaint from Robert Lund in October 2005.

9. The Department issued a Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges to Respondent on December 12, 2005. Respondent appeared at the hearing of this matter on June 2, 2006, and acknowledged that the allegations contained in the Statement of Charges were true and stated that he was not contesting the accuracy of the charges.

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

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Labor and Industry have jurisdiction in this matter under Minn. Stat. 14.50, 45.027, and 326.91.

2. The Respondent was given timely and proper notice of the hearing in this matter.

3. The Department has complied with all procedural requirements of law.

4. Any of the Findings of Fact more properly termed Conclusions are incorporated as such.

5. The Department must prove by a preponderance of the evidence that the alleged violations occurred.¹

6. Based on the facts as set out in the Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charge, by entering into and breaching the Zank contract, Respondent has engaged in unlicensed

¹ Minn. R. Pt. 1400.7300, subp. 5.

residential contractor activities in violation of Minn. Stat. 326.84, subds. 1 and 1b; Minn. Stat. 326.91, subds. 1(4) and 1(6); and Minn. Stat. 326.91, subd. 1a.

7. Based on the facts as set out in the Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges, by entering into and breaching the Lund contract, Respondent violated Minn. Stat. 326.91, subds. 1(4) and 1(6).

8. The Commissioner may deny, suspend, revoke, censure, or fine a licensee if the action is in the public interest.² The Department has established that entry of an Order by the Commissioner imposing disciplinary action against the Respondent is in the public interest within the meaning of Minn. Stat. 45.027, subd. 7(1) and 326.91, subd. 1.

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that appropriate disciplinary action be taken against Jeff Danberg.

Dated this 5th day of June 2006.

s/Lucinda E. Jesson
LUCINDA E. JESSON
Administrative Law Judge

Reported: Taped, 1 tape(s)
No transcript prepared

² Minn. Stat. 326.91, subd. 1.

