

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
BUREAU OF HEARINGS**

In the matter of

Docket No. 2000-713

**Bureau of Commercial Services,
Petitioner**

Agency No. 21-99-3557

v

**Agency: Bureau of Commercial
Services**

**Leroy Williams,
Respondent**

Case type: Sanction

_____ /

**Issued and entered
this 31st day of August, 2000
by Erick Williams
Administrative Law Judge**

HEARING REPORT

Procedural History

This case involves allegations of poor work on a roof job in Detroit. The Bureau of Commercial Services issued a complaint against Leroy Williams on January 10, 2000. A hearing convened on June 2, 2000. Paul Millenbach represented the Bureau of Commercial Services. Mr. Williams participated without a lawyer. This opinion finds Mr. Williams responsible for poor work and recommends \$2,700 restitution.

Issues and Applicable Law

The complaint alleges violations of the following laws. MCL 339.604(c);

MSA 18.425(604)(c) reads:

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602: ...

(c) Violates a rule of conduct of an occupation....

MCL 339.2411(2); MSA 14.825(2411)(2) reads in part:

A licensee or applicant who commits 1 or more of the following shall be subject to the penalties set forth in article 6:

(a) Abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee....

(e) A willful violation of the building laws of the state or of a political subdivision of the state....

(m) Poor workmanship or workmanship not meeting the standards of the custom or trade verified by a building code enforcement official.

1979 AC R 338.1551(4) reads:

If a complaint is justified by the local building inspector or by a person authorized by the department to make inspections, the builder or contractor shall correct the complaint within a reasonable time. Failure or refusal by the licensee to correct a structural matter that is materially deficient, dangerous or hazardous to the owners shall be presumed to be dishonest or unfair dealing.

1979 AC R 338.1551(5) reads:

Standards of construction shall be in accordance with the local building code, or in the absence of a code in accordance with the building code of the nearest political subdivision having a building code.

1995 CABO 903.6 reads in part:

Flashing against a vertical sidewall shall be by the step-flashing method.... Other methods shall be permitted when installed in accordance with the manufacturer's printed instructions.

1995 CABO 903.7 reads:

Flashings against vertical front wall, as well as soil stack, vent pipe and chimney flashing, shall be applied according to asphalt shingle manufacturer's printed instructions.

Findings of Fact

In January 1999, a storm damaged the two-storey house of Patience Ukachukwu in Detroit. There was interior damage from a roof leak.

Ms. Ukachukwu contracted with Lion Construction Company for a new roof. She met with Leroy Williams, owner of the company, on June 8, 1999. Mr. Williams proposed doing the job for \$3,500 and Ms. Ukachukwu accepted. She paid half the contract price, \$1,750, before work began.

Work began on June 9, 1999, when some Lion Construction workers came and stripped the roof, leaving bare wood boards. The next day they partially resingled the roof,

but a large part was either left open or covered with a tarp. On June, 11, 1999, no one appeared. On June 12 and 13, 1999, it rained. If there had been a tarp on the open part of the roof, it was blown off. The roof open, there was extensive damage to the house. Ceilings fell down on the entire side of the house where the roof had been left open; ceilings collapsed on the second floor, the first floor and in the basement. On June 14, 1999, Mr. Williams visited the house, saw the rain damage, and promised to repair it.

On June 17, 1999, workers appeared. They put drywall on the ceilings that had fallen down. But work on the roof and interior was still not complete. At about that time, Mr. Williams demanded more money, and he recalls that the Ukachukwus refused to pay him. Without payment, Mr. Williams refused to do any more work on the roof or the interior of the house. Ms. Ukachukwu recalls that, on June 26, it rained again, causing more damage.

A Detroit building inspector, Thomas Bommarito, visited the site on July 1, 1999. He noticed the roof had been completely resingled. Mr. Bommarito speculated that a large amount of water must have come into the house, since ceilings had collapsed on all three levels. In his inspection reports, Mr. Bommarito found the following defects:

No step flashing intersection of roof deck and dormer. No flashing at chimney. Drip edge missing south side second storey roof as per contract. Fascia boards not replaced as needed. Gutters not replaced. Some missing. Water damaged ceilings lower bedrooms. Water damaged ceiling tiles basement. Poor tarping. No painting of bedrooms upper and lower, living room, dining room as per contract.

Mr. Bommarito found poor workmanship on the roof job and repair job and

violations of the Detroit Building Code, 1995 CABO 903.6 and 903.7. Exhibit 11. Exhibit 12.

On July 13, 1999, Ms. Ukachukwu hired another contractor, Dion Reno, to fix the roof. She paid \$1,100. Exhibit 9.

In October 1999, Ms. Ukachukwu hired another contractor, Home Doctor, to repair the interior. She paid \$1,600. Exhibit 10.

Conclusions of Law

There is no real dispute that Mr. Williams' work on the roof and the interior of Ms. Ukachukwu's house was defective. He violated provisions of the Detroit building code and thus violated the state licensing law, MCL 339.2411(2)(e); MSA 14.825 (2411) (2)(e). In the opinion of the Detroit building inspector, Mr. Williams' work on the Ukachukwu house was poor, in violation of MCL 339.2411(2)(m); MSA 14.825 (2411) (2)(m).

Mr. Williams argues that he had no obligation to finish work on the house because Ms. Ukachukwu owed him money. That argument loses. Mr. Williams had not properly sealed the roof, and he took too long to reshingle it. Doing so, he caused extensive damage to Ms. Ukachukwu's house. Mr. Williams should have fixed that damage right away. Instead, he held out for more money, which was unfair. This case is similar to *Arndt v State of Michigan*, 147 Mich App 97; 383 NW2d 136 (MI Ct of App, 1985). In that case, the Court of Appeals said it was illegal for a contractor to refuse to correct his own defective work as a means of forcing a homeowner to pay a debt. Mr. Williams abandoned the Ukachukwu job

without a justifiable excuse. He violated MCL 339.2411(2)(a); MSA 14.825(2411)(2)(a). Mr. Williams failed to correct defects in his work, in violation of 1979 ACR 338.1551(4).

The other rules and statutes cited in the complaint are duplicative.

Decision

Mr. Williams' work on the Ukachukwu job violated provisions of the Detroit building code; accordingly he violated MCL 339.2411(2)(e); MSA 14.825(2411)(2)(e). Mr. Williams' work was poor, in violation of MCL 339.2411(2)(m); MSA 14.825(2411)(2)(m). Mr. Williams abandoned the Ukachukwu job without a justifiable excuse, violating MCL 339.2411(2)(a); MSA 14.825(2411)(2)(a).

Proposed Sanctions

MCL 339.602; MSA 14.825(602), reads:

§ 602. A person, school, or institution which violates a section of this act or a rule or order promulgated or issued under this act shall be assessed one or more of the following penalties:

- (a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.
- (b) Suspension of a license or certificate of registration.
- (c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- (d) Revocation of a license or certificate of registration.
- (e) A civil fine to be paid to the department, not to exceed \$10,000.00.
- (f) Censure.
- (g) Probation.
- (h) A requirement that restitution be made.

An appropriate remedy here would be \$2,700 restitution. That amount is based on Ms. Ukachukwu's payment of \$1,100 to fix the roof and \$1,600 for interior repairs.

Erick Williams
Administrative Law Judge