



Safety Codes Council

COUNCIL ORDER NO. 2020-05

BEFORE THE ADMINISTRATIVE TRIBUNAL OF THE ELECTRICAL SUB-COUNCIL

(the “Tribunal”)

ON FEBRUARY 22, 2021

IN THE MATTER OF the *Safety Codes Act*, Revised Statutes of Alberta 2000, Chapter S-1 (the “Act”);

AND IN THE MATTER OF the Written Notice of refusal to issue a Certificate of Competency dated December 18, 2020 (the “Written Notice”) by the Administrator of Certification at the Safety Codes Council (the “Respondent”) against [REDACTED] (the “Appellant”);

UPON REVIEWING AND CONSIDERING the evidence named in **The Record** and the submissions of the Appellant and Respondent; and **UPON HEARING** the testimony of the Appellant and Respondent at the virtual hearing;

IT IS HEREBY ORDERED THAT the Written Notice is **CONFIRMED**.

Appearances, Preliminary, Evidentiary, or Procedural Matters:

1. The hearing for this matter was conducted by virtual means.
2. At the commencement of the hearing, the Coordinator of Appeals confirmed the subject of the appeal as the Written Notice, and confirmed the names of those in attendance:
 - a) Appearing for the Appellant, the Tribunal heard from [REDACTED];
 - b) Appearing for the Respondent, the Tribunal heard from [REDACTED], the Administrator of Certification at the Safety Codes Council;
 - c) Facilitating the hearing on behalf of the Safety Codes Council: [REDACTED] (Coordinator of Appeals and Co-Facilitator), and [REDACTED] (Co-Facilitator).
 - d) Attending as observers for the hearing: [REDACTED]
[REDACTED]
3. The Coordinator of Appeals then introduced the Chair of the Tribunal (the “Chair”), [REDACTED] and turned the hearing over to him.

4. The Chair called the hearing to Order and introduced the other Tribunal members: [REDACTED].
5. The Appellant and Respondent confirmed there were no objections to any members of the Tribunal, and that the Safety Codes Council in general and the Tribunal in particular had jurisdiction to hear and decide the appeal. The Tribunal also confirmed they had jurisdiction to hear and decide this appeal.
6. The Chair then explained the process of the hearing, and advised of the list of the written material before the Tribunal, consisting of the documents listed below in **The Record** (see paragraph 7). The Appellant and Respondent confirmed that there were no objections to any of the material submitted to the Tribunal and neither party submitted new evidence during the hearing.

The Record:

7. The Tribunal considered, or had available for reference, the following documentation:

<u>Item</u>	<u>Description</u>	<u>Date</u>
i.	Written Notice of Refusal to Issue Certificate of Competency	December 18, 2020
ii.	Notice of Appeal from [REDACTED]	December 23, 2020
iii.	Council's Acknowledgment Letter	December 23, 2020
iv.	Council's Notification of Hearing Letter	January 13, 2021
v.	EXHIBIT 1 APPELLANT - Appellant's Brief Submission	-
vi.	EXHIBIT 1 RESPONDENT - Respondent's Brief Submission	-

Issue:

8. This appeal concerns the Respondent's refusal to allow the Appellant to obtain a Master Electrician Certificate of Competency, as he did not meet the minimum experience requirements, as set out in the *Certification and Permit Regulation, Alberta Regulation 295/2009* (the "*Regulation*"), to qualify to write the Master Electrician examination. Specifically, the requirement of three years of work experience as a Journeyman Electrician has not been met.

Positions of the Parties:

Appellant

From the Appellant's submissions and testimony, the Appellant's position is summarized as follows:

9. It is the position of the Appellant that the Written Notice should be revoked, as the

Appellant's work experience is equivalent to what is required under the *Act*. Accordingly, he should be given the opportunity to pursue a Master Electrician Certificate of Competency at this time.

Respondent

From the Respondent's submissions and testimony, the Respondent's position is summarized as follows:

10. It is the position of the Respondent that the Written Notice should be upheld as the Appellant does not meet the minimum experience requirements set in the legislation and deemed satisfactory to the Respondent.

Summary of the Oral Evidence Provided On Behalf of the Appellant:

Evidence provided on behalf of [REDACTED]

11. The Appellant questioned the requirement of working as a Journeyman Electrician for three years against the Respondent considering other relevant and equivalent experience of an applicant to become a Master Electrician.
12. He also stated that *Regulation* does not have the requirement of three years as a Journeyman Electrician, rather it speaks to having three years of relevant experience in the industry.
13. The Appellant contended that merely possessing a Journeyman trade certificate does not guarantee any type of experience. He believes he possesses the relevant and equivalent experience of a Journeyman Electrician and this should be considered with his application; not just the amount of time he has held a certain certificate.
14. He spoke to the wide range and amount of experience he has had in life and specifically during his apprenticeship, which was detailed in **EXHIBIT 1 APPELLANT** and also stated that some of the things he did while he was a forth-year apprentice were things a Journeyman would do. The Appellant endeavoured to gain a vast amount of experience in various areas, including industrial, commercial, and residential, with the goal of becoming a Master Electrician.
15. The Appellant's Journeyman trade certificate was effective as of January 9, 2020 and issued on January 13, 2020.
16. The Appellant was aware that under section 16(b)(ii) of the *Apprenticeship Program Regulation*, which is apart of the *Apprenticeship and Training Industry Act*, an apprentice is not allowed to supervise, as that responsibility falls under the Journeyman Electrician. The Appellant explained that there was always a Journeyman Electrician on-site during his apprenticeship and that he was able to give direction through the proper chain of command, as required by the legislation.
17. The Appellant advised of his supervisory experience in other roles, as well as, the extent of electrical knowledge.

18. In summary, the Appellant believes his overall experience should be a consideration versus the amount of time he holds a certain certificate and the experience he has obtained qualifies him to be a Master Electrician in Alberta.

Summary of the Oral Evidence Provided On Behalf of the Respondent:

Evidence provided on behalf of [REDACTED] (Administrator of Certification)

19. The Respondent contended that the same standards, with respect to minimum experience requirements, are applied consistently to all applicants for the Master Electrician Program.
20. To obtain a Master Electrician Certificate of Competency, an applicant needs to: hold a Journeyman trade certificate, have obtained sufficient experience working as a Journeyman Electrician for three out of the last five years, and pass the Master Electrician examination.
21. The requirements are published in multiples places, including the *Regulation*, Safety Codes Council (“Council”) policy, and on the Council’s website. The Respondent further advised that the requirements were communicated to the Appellant in multiple emails, as evidenced in **EXHIBIT 1 RESPONDENT**.
22. The Respondent stated that the Council’s process is to assess credentials, in accordance with the *Regulation*, prior to the applicant writing the Master Electrician examination. While the Appellant does have the Journeyman trade certificate, he currently does not meet the minimum experience requirements of three years of experience working as a Journeyman Electrician.
23. The *Regulation* does not specify details on the experience required, but does state that it must be ‘satisfactory to the Administrator’. Accordingly, there is discretion for the Respondent to determine what experience is sufficient.
24. The Respondent advised that throughout the history of the Master Electrician Program the standard has been the three years of experience working within the scope of practice of a Journeyman Electrician. Previous Administrators of Certification have applied this standard and the Respondent, as the current Administrator, has chosen to uphold it, as there has been no reason as to why this standard is not sufficient as the minimum experience requirement.
25. As Master Electricians execute duties of a permit holder, as well as, ensure code compliance, and have some supervisory duties, three years should be the minimum amount of experience an applicant has as a Journeyman Electrician to ensure they can execute these responsibilities.
26. Experience as an apprentice cannot be considered equivalent to experience as a Journeyman Electrician, as the scope of practice is different.
27. The Respondent advised that just holding the Journeyman trade certificate for three years is not what is required, it’s having sufficient experience working as a Journeyman Electrician for three years.

28. The Council has a digital application process, where applicants must provide a copy of their Journeyman trade certificate and input information describing the work done and experience obtained under the scope of practice of the Journeyman trade certificate. Council staff reviews the details to determine whether the experience meets the three-year requirement, as well as, whether it is sufficient, looking at the type of work, such as supervisory or oversight, and the area, such as commercial, industrial, residential. Reference checks may also form part of the process to verify the information.
29. The Respondent spoke to some instances where an applicant applied with two and half years to three years of working experience, as the examination typically takes three to six months of preparation. The Respondent would look at the applicant's work experience and if sufficient at or around that two and half year mark would authorize the applicant to write the exam early. He did qualify this saying that the actual Certificate of Competency could only be issued after the three-year mark upon verification that the applicant was still working as a Journeyman Electrician to ensure the three years of experience was in fact obtained.
30. The Respondent advised that the Appellant is encouraged to reapply once he meets the minimum experience requirement.
31. In summary, the Respondent contended that the program was established with minimum standards, which are applied fairly and consistently to all applicants. At this time, the Appellant does not meet the minimum experience requirement, but his application is welcomed in the future should he continue to obtain experience as a Journeyman Electrician.

Findings of Fact:

The Tribunal makes the following findings:

32. The Written Notice was issued when the Appellant submitted an application on December 15, 2020 to write the Master Electrician exam (page 14 of **EXHIBIT 1 RESPONDENT**).
33. The Written Notice was based on the Appellant not meeting the minimum experience requirements stated in the *Regulation* and set by the Administrator; specifically, that he did not have a minimum of three years working as a Journeyman Electrician.
34. The Appellant had been made aware of the qualification requirements during email correspondence with the Council prior to submitting the application in December (pages 5 to 9 of **EXHIBIT 1 RESPONDENT**).
35. The Appellant has held a Journeyman trade certificate since January 9, 2020 and has been working as a Journeyman Electrician with [REDACTED] since that time (page 6 of **EXHIBIT 1 APPELLANT**); this falls short of the minimum three-year experience requirement.
36. The Appellant has worked in the electrical industry for approximately seven years (pages 3 and 4 of **EXHIBIT 1 APPELLANT**) and was a fourth year apprentice for about two and half

of those years (pages 3 and 6 of **EXHIBIT 1 APPELLANT**).

- 37.** Given the wording in section 4(1)(b)(i) in the *Regulation* of 'satisfactory to the Administrator', the Respondent has discretion in determining what is considered relevant experience in the electrical industry and this has been interpreted to be three years working as a Journeyman Electrician.
- 38.** The Respondent fairly considered the Appellant's application, consistently applying the standard with respect to minimum experience requirements.

Reasons for Decision:

- 39.** On an appeal such as this, the powers of the Tribunal are set out in subsection 52(2) of the *Act*:

52(2) The Council may by order

- (b) Confirm a refusal or direct that a designation, certificate or permit be issued and direct inclusion of terms and conditions in the designation, certificate or permit

- 40.** The Written Notice was said to be issued pursuant section 42(1) of the *Act* and section 4(1) of the *Regulation*, which reads as follows:

42(1) On receipt of an application, an Administrator may issue a certificate of competency to a person who complies with the requirements of this Act.

4(1) The Administrator may issue a master electrician certificate of competency to an applicant who

- (a) holds a trade certificate as defined in section 1(o)(i) or (ii) of the Apprenticeship and Industry Training Act in the trade of electrician,
- (b) has, in the 5 years preceding the application,
- (i) obtained a minimum of 3 years of relevant experience in the electrical industry satisfactory to the Administrator, or
- (ii) been actively engaged in electrical contracting for a minimum of 3 years under a restricted master electrician certificate,
- (c) has paid the appropriate fee, and
- (d) has attained a mark of at least 75% in a master electrician examination approved by the Administrator.

- 41.** The evidence demonstrates that while the Appellant may have obtained a great deal of experience during his time in the electrical industry and more specifically his apprenticeship, he would have been precluded from doing the work of a Journeyman Electrician; therefore, his apprenticeship experience would not equate to relevant or sufficient experience as a Journeyman Electrician. He would have had to be under supervision during his apprenticeship, instead of himself being in a supervisory or

oversight role as a Journeyman Electrician.

42. The *Regulation* may not speak to the minimum of three years of relevant experience in the electrical industry explicitly being three years working as a Journeyman Electrician; however, this is what has been determined by the Respondent as satisfactory to the relevant experience required and the Respondent applied the minimum standard fairly and did not appear to prejudice the Appellant.
43. The Tribunal finds, based on the evidence before it that the Appellant does not comply with the requirements of the *Act*, more specifically the *Regulation* and the minimum standards set by the Respondent, as the Administrator of Certification. Therefore, the Written Notice is confirmed.

Signed at the City of Edmonton)
in the Province of Alberta)
this 2nd day of March, 2021)



Chair, Electrical Sub-Council
Administrative Tribunal