

BEFORE THE BOARD OF ELECTRICAL EXAMINERS
STATE OF ARKANSAS

IN RE: KEVIN LANE CUNNINGHAM,
JOURNEYMAN ELECTRICIAN LICENSE NO. J-7320

ORDER

This matter came before the Board of Electrical Examiners, State of Arkansas (hereinafter, the Board) on Tuesday, May 20, 2003 at 1:00 p.m. in the offices of the Arkansas Department of Labor. Kevin Lane Cunningham was not present, although the Board finds that he received notice of the hearing by certified mail. Denise P Oxley, counsel for the Department of Labor represented the agency and presented the staff's case for revocation. Chairman Mike Cushman recused himself from this matter and Vice Chairman Gary Ferrell chaired the hearing.

The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. Kevin Cunningham registered with the Board as an electrical apprentice on November 1, 2000. He was enrolled in the White River Electrical Apprenticeship Training Program.
2. On July 16, 2002, the Department of Labor received an application for a journeyman license from Mr. Cunningham. Mr. Cunningham's application listed only two employers for whom he performed electrical work. Specifically, Mr. Cunningham stated on his application that he performed industrial electrical work for Rust Construction, Inc. from May 20, 2002 through July 16, 2002 and that he performed

commercial and residential electrical work for L & L Building and Remodeling in Cave City, Arkansas from May 16, 1998 through May 20, 2002.

3. Mr. Cunningham submitted with his application a notarized letter on the letterhead of L & L Building and Remodeling that stated "Kevin Cunningham was hired with this company in May of 1998 and has served as a fulltime electrician on many different jobs." Nelson L. Burton, Master Electrician M5656, signed the letter dated July 11, 2002. This letter contained original signatures of Nelson Burton and the notary, as well as the raised seal of the notary. Record at 50.

4. Ron Wilder, Chairman of the White River Apprenticeship Training Committee testified that Mr. Cunningham had completed his classroom hours and had documented OJT (on the job training) credit hours of 766. In addition, Mr. Wilder testified that he had received a copy of a notarized letter addressed to the Board of Electrical Examiners from L & L Building and Remodeling indicating that he had worked for them from May 1998 through May 2002 and had 8,027 hours of work experience. Record at 15.

5. The copy of the letter received by Ron Wilder is a copy of the notarized letter received by the Board with Mr. Cunningham's application, with the addition of specific handwritten hours that read:

	Hours Worked
May 1998-1999	2003
May 1999-2000	2014
May 2000-2001	2001
May 2001-2002	2009

Nelson L. Burton purportedly signed this handwritten addition.

6. Mr. Wilder testified that based on this letter, he released Mr. Cunningham for testing and so notified the Arkansas Department of Workforce Education. The Board of Electrical Examiners received a "Release for Test" from the Department of Workforce Education for Kevin Cunningham on September 11, 2002.

7. Kevin Cunningham was approved for testing by the Board on September 23, 2002. Mr. Cunningham passed the journeyman test with a score of 76.

8. Nelson L. Burton testified before the Board that he met Kevin Cunningham in 1999 when Quality Heat & Air in Batesville employed them both. Kevin Cunningham worked under the supervision of Mr. Burton on two separate occasions in about one-year's time. Mr. Burton testified that he agreed to write a letter to the Board on behalf of Kevin Cunningham. Mr. Burton testified that he signed the notarized letter. Record at 50. Mr. Burton testified that the letter he signed did not have the handwritten notation of hours worked from May 1998 through May 2002. He testified that the signature underneath that handwritten notation was not his signature. See Record at 15.

9. Mr. Burton further testified that he was not and had never been an employee of L & I. Building and Remodeling. He testified that he believed that company belonged to Mr. Cunningham's father, Leon Cunningham. Mr. Burton testified that he did not realize the letter Kevin Cunningham prepared for him to sign was written on the letterhead of L & L Building and Remodeling. Mr. Burton testified that after he signed the letter, he gave it to Kevin Cunningham.

10. Additionally, Mr. Burton testified that he had no personal knowledge of the electrical experience of Kevin Cunningham, other than the two occasions Kevin

Cunningham worked under his supervision for Quality Heat & Air. This experience was less than one year.

CONCLUSIONS OF LAW:

The Board of Electrical Examiners is authorized to revoke or suspend any license for cause. Ark. Code Ann. § 17-28-202(a)(3)(Repl. 2001). In the present case, the Board concludes that Kevin L. Cunningham knowingly submitted false information to the local apprenticeship committee, the Arkansas Department of Workforce Education, and the Arkansas Board of Electrical Examiners in order to obtain a journeyman electrician license. There is no evidence that Kevin L. Cunningham had the requisite experience for licensure as established by Regulation 6 of the Board.

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that the journeyman license of Kevin L. Cunningham, J-7320, is hereby revoked for cause.

BOARD OF ELECTRICAL EXAMINERS
STATE OF ARKANSAS

By: Gary Ferrell
Gary Ferrell, Vice Chairman

Date: 9-2-03

Prepared by:
Denise P. Oxley, 84-117
Chief Legal Counsel
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205
501-682-4504