

BEFORE THE HEATING, VENTILATION, AIR CONDITIONING AND REFRIGERATION
LICENSING BOARD

DIVISION OF LABOR

DEPARTMENT OF LABOR AND LICENSING

STATE OF ARKANSAS

**IN RE: Jeff Hendren and
 H&K Heating & Air Inc.
 11036 Hwy 59
 Gravette, Arkansas 72736**

ORDER

On this 9th day of March 2022, this matter came before the Heating, Ventilation, Air Conditioning and Refrigeration (HVACR) Licensing Board of the State of Arkansas. Denise Oxley, General Counsel, Department of Labor and Licensing, represented the agency. Jeff Hendren was properly notified of the hearing and appeared before the Board via zoom. Mr. Hendren stipulated to the facts contained in the inspection report. The Board made the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT:

1. Mr. Hendren employed Mr. Jeffrey Aue as a registrant to perform HVACR work.
2. Mr. Aue was not licensed with the HVACR Board on November 4, 2021.
3. Mr. Aue was observed performing HVACR work on November 4, 2021.
4. On January 25, 2022, the Arkansas Department of Labor and Licensing issued a civil money penalty to Mr. Hendren in the total amount of \$250.00 which represented one penalty for allowing a registrant to perform HVACR work without a license.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 17-33-301(a) and (b) prohibits any person from performing heating, ventilation, air conditioning and refrigeration work in Arkansas without a license.
2. Ark. Code Ann. § 17-33-202 *et seq.* authorizes the Department of Labor and Licensing to assess a civil money penalty subject to appeal to the Board for licensing violations; violations of the HVACR Code Authority Act, Ark. Code Ann. § 17-33-204 *et seq.*; and violations of the rules promulgated by the Board.
3. The civil money penalty in this case is less than the \$250.00 for a first offense established by statute. Ark. Code Ann. § 17-33-204. This penalty is also within the guidelines established by the rule of the Board.
4. The Board, in its discretion, may increase or decrease a penalty taking into consideration:
 - a. The degree and extent of harm to the public safety or to property, or the potential harm;
 - b. The duration and gravity of the violation;
 - c. Whether the violation was committed willfully or intentionally, or reflects a continuing pattern;
 - d. Whether the violation involved elements of fraud or deception either to the public or the Board, or both;
 - e. The violator's prior disciplinary record with the Board;
 - f. Whether and to the extent which the violator profited by the violation.
5. In the present case, the Board decreased the civil money penalty from \$250.00 to \$125.00 against Mr. Hendren. The Board considered Mr. Hendren's testimony about how this was a first time, simple mistake that he made.

IT IS THEREFORE ORDERED that the civil money penalty assessed by the Director of the Department of Labor and Licensing against Jeff Hendren in the amount of \$125.00 is affirmed.

HEATING, VENTILLATION, AIR CONDITIONING and
REFRIGERATION LICENSING BOARD, DEPARTMENT
OF LABOR AND LICENSING,
STATE OF ARKANSAS

By: 
Alan Dean, Chairman

Date: 3-29-22

Approved as to Form:

Miles Morgan, 2017-049
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