

BEFORE THE HVACR LICENSING BOARD
DIVISION OF LABOR
DEPARTMENT OF LABOR AND LICENSING
STATE OF ARKANSAS

IN RE: Joshua Dutton

Dutton Heating & Air

PO Box 8252

Fort Smith, AR 72901

ORDER

On the 8th day of November 2023, this matter came before the HVACR Licensing Board (the “Board”). Miles Morgan, Associate Counsel, Department of Labor and Licensing represented the Board. Joshua Dutton of Dutton Heating & Air (“Dutton”) was properly notified but failed to appear before the Board for the hearing. Based on the testimony and other evidence, the Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. On October 5, 2023, the Board issued a Notice of Hearing on Violations and Proposed Penalties (the “Notice”) to Dutton. The Notice provided that a hearing before the HVACR Licensing Board would be held on Wednesday November 8, 2023, at 10:00 a.m. in the fourth-floor board room of the Arkansas Department of Labor and Licensing (the “Department”).
2. Dutton did not appear before the Board.
3. Anthony Woodard (“Woodard”), HVACR Section Chief Inspector, testified that an inspection and license check was conducted on October 2, 2023, at a new residential construction site in Fort Smith, Arkansas.
4. During the inspection, Dutton’s employees, Danielle Henley and Derrick Riley confirmed that they were not licensed to perform HVACR work.

5. Dutton, who possesses a valid HVACR license, stated that both employees had been working for him since July 1, 2023.
6. Dutton also did not display his HVACR license number on his work vehicle. ADLL Inspector J.C. Brenaman encountered Dutton in March 2023 and advised him that he needed to display his HVACR license number on his work vehicle.
7. In the inspection report, Dutton is cited for his two employees each engaging in HVACR work without the proper license for thirty (30) days. Dutton is also cited for failure to display his HVACR license number on his work vehicle for two (2) days.
9. The Board finds that Dutton allowed his employees to engage in HVACR work without the proper license for a total of sixty (60) days and failure to display his HVACR license number on his work vehicle for two (2) days.

CONCLUSIONS OF LAW

1. It is unlawful for any person to engage in HVACR work without the appropriate license or registration provided by Arkansas law, unless exempt under Ark. Code Ann. § 17-33-301 *et seq.*
2. Ark. Code Ann. § 17-33-105 authorizes the Board to assess a civil penalty not to exceed two hundred fifty dollars (\$250.00) for any violation of the State HVACR mechanical code, statutes, or rules adopted by the Board. Each day of a continuing violation may be treated as a separate violation.
3. Dutton allowed unlicensed employees to perform HVACR work on sixty (60) separate days for a penalty of \$100.00 per day. Dutton also failed to display his HVACR license on his work vehicle on two (2) separate occasions for a penalty of \$250.00 each day.
4. The Board agrees with the staff recommendation and hereby assesses a civil money penalty in the amount of \$6,500.00 against Dutton.

IT IS THEREFORE ORDERED that the Board imposes a civil money penalty against Joshua Dutton and Dutton Heating & Air in the amount of \$6,500.00.

HVACR LICENSING BOARD,
DEPARTMENT OF LABOR AND LICENSING,
STATE OF ARKANSAS

By: 

Alan Dean, Chairman

Date: 11-20-2023

Approved as to Form:
Miles Morgan, 2017049
Associate Counsel
Arkansas Department of Labor and Licensing
900 West Capitol
Little Rock, AR 72201
(501) 682-4504