

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

**IN RE: KENNETH L. SMITH
 DBA – SMITH APPLIANCE LLC
 502 Robinhood Dr
 Monticello, AR 71655**

ORDER

On this 12th day of October 2022, this matter came before the HVACR Licensing Board (the "Board"). Miles Morgan, Associate Counsel, Department of Labor and Licensing, represented the agency. Kenneth L. Smith ("Smith") was properly notified and did not appear before the Board in person or via zoom 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 August 18, 2022, the Board issued a civil money penalty to Kenneth L. Smith in the total amount of **\$1,000.00**. This sum includes a civil penalty of \$250.00 for one (1) violation of Arkansas Code § 17-33-104 for failure to obtain a permit from the city of Monticello. Also, a civil penalty of \$250.00 for violating Arkansas Code § 17-33-301 by performing HVACR work without a license on three separate days totaling \$750.00.
2. On September 10, 2022, Smith received timely notice that his hearing before the Board would be held on Wednesday October 12, 2022, at 10:00 a.m.

3. Inspector Pearson determined two (2) violations of the State HVACR Code, statutes, and rules as adopted by the Board.
4. Included in Pearson's inspection report are photos depicting said violations on June 17, 2022.
5. Smith did not appear in-person or via zoom as he was offered.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 17-33-301 (a) and (b) prohibit any person from performing heating, ventilation, air conditioning or refrigeration work in Arkansas without a license.
2. Ark. Code Ann. § 17-33-105 authorizes the Board to assess a civil money penalty subject to hearing by the Board for any violation of the State HVACR Code, statutes, or rules adopted by the Board.
3. The penalty shall not exceed two hundred fifty dollars (\$250.00) for each violation, and each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. Ark. Code Ann. § 17-33-105(a)(1)(A)(ii).
4. Ark. Code Ann. § 17-33-307 authorizes the Board to suspend or revoke any license or registration if it finds that the holder of the license or registrant has demonstrated incompetency to act as a license holder or registrant or has violated the State HVACR Code, statutes, or rules promulgated by the Board.
5. The civil money penalty in this case equals or is less than the \$250.00 per violation for a first offense established by statute. Ark. Code Ann. § 17-33-105(a)(1)(A)(ii). The penalties are also within the guidelines established by the rule of the Board.
6. The Board agrees with the staff recommendation and assesses the civil money penalty against Smith to be affirmed in the amount of \$1,000.00.

7. Inspector Pearson met with Smith and explained the violations. Smith had the opportunity to correct the violations but willfully ignored Inspector Pearson.

IT IS THEREFORE ORDERED that a civil money penalty is hereby assessed against Kenneth L. Smith in the amount of \$1,000.00.

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

By: 
Alan Dean, Chairman

Date: 10-17-2022

/s/ Miles Morgan

Miles Morgan, 2017-049

Associate Counsel

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