

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

DIVISION OF LABOR

DEPARTMENT OF LABOR AND LICENSING

STATE OF ARKANSAS

IN RE: JOSE MONCADA, individually
212 ALPHA ST
WEST MONROE, LA 71292

ORDER

On this 8th day of June 2022, this matter came before the Heating, Ventilation, Air Conditioning and Refrigeration (HVACR) Licensing Board of the State of Arkansas. Miles Morgan, Associate Counsel, Department of Labor and Licensing, represented the agency. Jose Moncada 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 April 28, 2022, the Arkansas Department of Labor and Licensing issued a civil money penalty to Mr. Jose Moncada ("Moncada") in the total amount of **\$3,000.00**. This sum includes a civil penalty of \$250.00 each for twelve (12) separate violations of the State HVAC/R code as adopted by the Board.
2. Moncada was timely notified of his hearing before the Board on April 30, 2022. The hearing would be held on Wednesday June 8, 2022, at 10 a.m.
3. Moncada is doing business as "Jose Moncada."

4. The inspection by the Arkansas Department of Labor and Licensing (“ADLL”) was the result of a complaint filed by Whites Electric in Hamburg, Arkansas.
5. Inspector Doug Pearson determined twelve (12) violations of the State HVACR Code as adopted by the Board.
6. Included in the inspection report; photos taken by Pearson showing multiple violations, images of Mr. Moncada performing HVAC/R work on location and Moncada’s work vehicle was photographed to show it was present at the jobsite without proper licensing.
7. Moncada did not appear in-person or via zoom as he was offered.

CONCLUSIONS OF LAW:

1. 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 rules promulgated by the Board.
2. Ark. Code Ann. § 17-33-307(2) 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 according to rules and standards promulgated by the board.
3. 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. § 17-33-204. The penalties are 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;

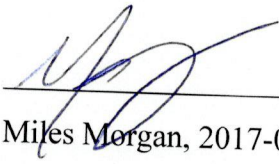
- b. The duration and gravity of the violation;
 - c. Whether the violation was committed willfully or intentionally, or reflects a continuing pattern;
 - d. Whether the violation involved elements of fraud or deception either to the public or the Board, or both;
 - e. The violator's prior disciplinary record with the Board;
 - f. Whether and to the extent which the violator profited by the violation.
5. In the present case, the Board has not increased the civil money penalty assessed against Mr. Moncada. This penalty is far below the maximum the Board could have allowed in matters such as this.
6. The Board voted to uphold the staff recommendation, imposing a civil money penalty of \$3,000.00.

IT IS THEREFORE ORDERED that the civil money penalty assessed by the Director of the Department of Labor and Licensing against Jose Moncada in the amount of \$3,000.00 is affirmed.

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

By: 
Alan Dean, Chairman

Date: 6-9-2022



Miles Morgan, 2017-049

Assistant Counsel

Arkansas Department of Labor and Licensing

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