

BEFORE THE HEATING, VENTILATION, AIR CONDITIONING AND REFRIGERATION
LICENSING BOARD
DIVISION OF LABOR
DEPARTMENT OF LABOR AND LICENSING
STATE OF ARKANSAS

**IN RE: Mike Mashburn
 310 East 2nd St
 Stuttgart, AR 72160**

ORDER

On this 10th day of August 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. Mike Mashburn 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 July 7, 2022, the Arkansas Department of Labor and Licensing issued a civil money penalty to Mr. Mike Mashburn ("Mashburn") in the total amount of **\$1,500.00**. This sum includes a civil penalty of \$750.00 for each of the two (2) violations of the State HVAC/R code as adopted by the Board.

2. Mashburn was timely notified of his hearing before the Board on July 13, 2022. The hearing scheduled for Wednesday August 10, 2022, at 10:00 a.m.
3. Mashburn is not currently licensed by the HVACR Board and has been conducting business under another licensee's HVACR number.
4. The inspection by the Arkansas Department of Labor and Licensing ("ADLL") was the result of a public outreach license check.
5. Inspector Don Brannen ("Brannen") determined two (2) violations of the State HVACR Code as adopted by the Board.
6. The inspection report includes photos taken by Brannen showing the license number Mr. Mashburn was using on May 17, 2022.
7. Brannen testified before the Board that he met with Mashburn who admitted that he has not taken the HVACR contractor's exam.
8. Chief Inspector Anthony Woodard also testified that he met with Mashburn and discussed the violations.
9. Mashburn 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 is equal to the maximum violation penalty of \$750.00 for each violation. One (1) violation of working without a license. Ark. Code Ann. § 17-33-301(a). One (1) violation of displaying an expired license number. Ark. Code Ann. § 17-33-304. The civil money penalty is 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 agreed with the staff recommendation and ordered the civil money penalty assessed against Mr. Mashburn to be affirmed in the amount of \$1,500.00.
6. Inspector Brannen and Chief Inspector Anthony Woodard met with Mr. Mashburn on two (2) separate occasions and explained the violations. Mashburn was aware that he

needed to obtain a license by taking the HVACR exam, but he continued to work using another licensee's HVACR number.

7. The Board voted to impose a civil money penalty of \$1,500.00.

IT IS THEREFORE ORDERED that the civil money penalty assessed by the Director of the Department of Labor and Licensing against Mike Mashburn in the amount of \$1,500.00 is affirmed.

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

By: 

Alan Dean, Chairman

Date: 8-10-02

/s/ Miles Morgan

Miles Morgan, 2017-049

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