

**STATE OF CONNECTICUT
CONNECTICUT EXAMINING BOARD FOR BARBERS,
HAIRDRESSERS AND COSMETICIANS**

Donovan Barker

Petition No. 2004-0519-020-014

MEMORANDUM OF DECISION

Procedural Background

The Department of Public Health (“the Department”) presented the Connecticut Examining Board For Barbers, Hairdressers And Cosmeticians (“the Board”) with a Statement of Charges (“the Charges”) brought against Donovan Barker (“respondent”) dated September 29, 2004. Board Exh. 1. The Charges and Notice of Hearing were sent to respondent by certified mail, return receipt requested, and first class mail on November 3, 2004. Board Exh. 1. The Notice of Hearing scheduled a hearing for January 24, 2005, and notified respondent that the hearing would be held before the Board. Board Exh. 1.

On January 24, 2005, the Board held an administrative hearing to adjudicate respondent’s case. Although the Department made sufficient and reasonable efforts to effectuate notice, respondent neither appeared nor was represented. Joelle Newton, Esq. represented the Department. At the hearing, the Department moved to deem the allegations admitted because of respondent’s failure to file an Answer. Board Exh. 2. The Board granted the motion. Tr. pp. 2-4.

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act) and §§ 19a-9-1, *et seq.* of the Regulations of Connecticut State Agencies (“the Regulations”). All Board members involved in this decision received copies of the entire record. All Board members involved in this decision attest that they have heard the case or read the record in its entirety. This decision is based entirely on the record. To the extent that the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H. Computer Systems, Inc.*, 605 F.Supp. 816 (M.D. Tenn 1985).

Allegations

1. In paragraph 1 of the Charges, the Department alleges that respondent was issued Connecticut hairdressing license number 002686. Said license lapsed due to non-renewal on April 30, 2002.
2. In paragraph 2 of the Charges, the Department alleges that from May 2003 to April 2004, respondent engaged in the practice of hairdressing without having a Connecticut license.
3. In paragraph 3 of the Charges, the Department alleges that this conduct constitutes a violation of § 20-252 of the Connecticut General Statutes (“the Statutes”).
4. The Department requests that the Board, as authorized in §§ 19a-11 and 19a-17 of the Statutes, order that respondent cease and desist the practice of hairdressing.

Findings of Fact

1. The Department provided adequate, reasonable, and actual notice of the hearing in this matter by sending such notice to respondent. The Notice of Hearing was delivered at the respondent’s address by certified mail on November 3, 2004. Board Exh. 1.
2. Respondent did not file an Answer to the allegations contained in the Charges.
3. All of the factual allegations contained in the Charges are deemed admitted. In particular,
 - a. Respondent’s hairdressing license number 002686 lapsed on April 30, 2002.
 - b. From May 2003 to April 2004, respondent engaged in the practice of hairdressing without having a license.

Discussion and Conclusions of Law

The Board finds that the Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh’g denied*, 451 U.S. 933 (1981); *Swiller v. Commissioner of Public Health*, CV 950705601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995.

Section 20-252 of the Statutes provides that “[n]o person shall engage in the occupation of registered hairdresser and cosmetician without having obtained a license from the department.” Section 20-250(5) defines “registered hairdresser and cosmetician” as a person who “holds a license to practice as a registered hairdresser and cosmetician.”

Section 19a-10 of the Statutes provides in pertinent part: “Any board . . . , may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with Chapter 54 and the regulations established by the Commissioner of Public Health.”

Section 19a-11 of the Statutes provides in pertinent part: “Any board . . . may, in its discretion, issue an appropriate order to any person found to be violating an applicable statute or regulation, providing for the immediate discontinuance of the violation.”

The Board finds that the Department has sustained its burden of proof with regard to all of the allegations in the Charges. Since respondent did not file an Answer, the allegations are deemed admitted. §19a-9-20 of the Regulations.

Because respondent practiced as a hairdresser and cosmetician after his license had lapsed, he violated §20-252 of the Statutes and the Board is authorized to order respondent to cease and desist practicing as a hairdresser and cosmetician.

Order

Pursuant to the authority vested in it by §§19a-10 and 19a-11 of the Statutes, the Board orders that respondent immediately cease and desist from practicing as a hairdresser and barbering unless and until respondent is properly licensed.

Connecticut Examining Board for
Barbers, Hairdressers and Cosmeticians

8/29/05

Date


By: Johanna Najamy, Chairperson