



Environmental Appeal Board

Citation: *Paradise Hixon Motel Ltd. v. Assistant Water Manager*, 2025 BCEAB 11

Decision No.: EAB-WSA-25-A004(a)

Decision Date: 2025-03-18

Method of Hearing: Conducted by way of written submissions concluding on March 14, 2025

Decision Type: Summary Dismissal Decision

Panel: David Bird, Vice Chair

Appealed Under: *Water Sustainability Act*, SBC 2014, c. 15

Between:

Paradise Hixon Motel Ltd.

Appellant

And:

Assistant Water Manager

Respondent

Appearing on Behalf of the Parties:

For the Appellant: Jaspinder Malhi and Manjot Shergill, Representatives

For the Respondent: Self-represented

SUMMARY DISMISSAL DECISION

INTRODUCTION

[1] The Environmental Appeal Board (the “Board”) received a Notice of Appeal dated February 20, 2025, filed by Jaspinder Mahli and Majot Shergill, on behalf of Paradise Hixon Motel Ltd. (the “Appellant”), via email on February 24, 2025. The Appellant seeks to appeal the December 17, 2024, Remediation Order (the “Order”) issued by Brian Purvis, Assistant Water Manager (the “Respondent”).

[2] Section 105(3) of the *Water Sustainability Act* (the “WSA”) provides:

(3) The time limit for a person to commence an appeal is 30 days after the date on which notice of the order being appealed is delivered to the person.

[3] The Board does not have the authority under section 24(2) of the *Administrative Tribunals Act* (the “ATA”) to extend the 30-day timeframe to file an appeal.

[4] Evidence provided by the Respondent confirms the Order was hand delivered to the Appellant at 1:18 p.m., December 18, 2024. Another copy of the Order was delivered to the Appellant on December 20, 2024, when it was attached to the front door of Paradise Hixon Motel in Cache Creek, BC. Under section 117(2)(b) of the WSA the Order is deemed to have been delivered to the Appellant on December 23, 2024.

[5] In their March 14, 2025, email the representatives for the Appellant state that the information provided by the Respondent regarding how the Order was delivered “appears to be accurate”.

DISCUSSION

[6] Based on the evidence provided by the parties, I find that it is more likely than not that the Appellant received the Order when it was hand delivered on December 18, 2024. Under Board Rule 4¹, the 30-day time period in which the Appellant could file an appeal of the Order ended on January 17, 2025. Given this finding, the Appellant filed their Notice of Appeal outside of the 30-day period provided under the WSA.

¹ Board Rule 4 provided that when counting calendar days forward, the calendar days are counted by excluding the first day and including the last day. If the due date falls on a Saturday, Sunday, or public holiday, the due date will be the next calendar day that is not a Saturday, Sunday, or public holiday.

[7] If I am incorrect that the Order was delivered to the Appellant on December 18, 2024, I have calculated the 30-day time period to file an appeal based on the Order being deemed delivered to the Appellant on December 23, 2024. Counting 30 calendar days forward from December 23, 2024, the deadline to file a notice of appeal fell on January 22, 2025. Even accepting this later date of delivery of the Order to the Appellant results in the conclusion that the Notice of Appeal was filed out of time.

[8] I acknowledge the Appellant's position that there is incorrect information in the Order, and they sought to have this information corrected by the Respondent. However, this information is not relevant to my determination regarding when the Order was delivered to the Appellant.

[9] Section 105(4) of the *WSA* provides that, subject to the *WSA*, Division 1 of Part 8 of the *Environmental Management Act* (the "*EMA*") applies to an appeal under the *WSA*. Section 93.1 of the *EMA* sets out the provisions of the *ATA* that apply to the Board, and section 93.1(d)(ii) specifically excludes section 24 of the *ATA*.

[10] Section 24(2) of the *ATA*, if it applies, states that a tribunal may extend the time to file a notice of appeal, even if the time to file has expired, if satisfied that special circumstances exist. For the Board, the legislature specifically did not grant the Board the authority under section 24(2) of the *ATA* to extend the 30-day time frame to file an appeal. Therefore, I have no ability to extend the 30-day time frame to file an appeal under the *WSA*.

[11] Under section 31(1)(b) of the *ATA*, a tribunal may dismiss an application that was not filed within the applicable time limit.

DECISION

[12] Based on my findings of when the Order was delivered to the Appellant and the legislated time frame to file an appeal, I summarily dismiss the Appellant's appeal under section 31(1)(b) of the *ATA* because it was not filed within the 30-day time limit provided under the *WSA*. The Board will close its file and take no further action.

"David Bird"

David Bird, Vice Chair
Environmental Appeal Board