

## **REVIEW DECISION**

**bRe:** Review Reference #: R0328127  
Board Decision under Review: August 24, 2024

**Date:** March 26, 2025

**Review Officer:** Megan Nodwell

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### **Introduction and Background**

The applicant employer is an incorporated company that is registered with the Workers' Compensation Board ("Board"), which operates as WorkSafeBC. It provides electrical services in the construction industry.

On August 16, 2024, a Board officer carried out an inspection of a worksite where the employer was performing electrical installation. The officer observed that the worksite was a construction project of a new five-storey, residential, wood-frame, multi-family apartment development, consisting of three buildings. The officer noted that Building 1 was primarily in the finishing stages, Building 2 was at the rough framing stage, and Building 3 had not yet commenced wood framing on the suspended concrete slab. The underground parkade for the development was in the final completion stages, where concrete finishing and permanent lighting and services were being installed. The Board officer noted that the employer was the electrical subcontractor retained to complete the installation of electrical equipment, and also to provide temporary electrical power panels for the development.

During his inspection, the Board officer observed concrete debris at two locations in the development, following chipping of concrete by the employer to facilitate the installation of electrical services. The officer therefore issued an order against the employer for a breach of section 4.41 of the *Occupational Health and Safety Regulation* ("Regulation"). A written Inspection Report containing this order was delivered to the employer on August 24, 2024.

The employer requested a review of the August 24, 2024 order and provided brief written submissions in support of its request. Those submissions were given to the Board officer, who provided comments. The employer did not provide rebuttal submissions. All submissions were disclosed to the parties in accordance with the Review Division's *Practices and Procedures*.

Section 20(3) of the *Act* gives me the authority to conduct this review. Section 339(2) of the *Workers Compensation Act* ("Act") requires me to make a decision on the merits and justice of the case, applying the policies of the Board's board of directors applicable in the case. The policies are found in the *Prevention Manual*. The standard of proof that applies to this review is the balance of probabilities.

## Issue

The issue to be determined on this review is whether the employer was in violation of section 4.41 of the *Regulation*.

## Reasons and Decision

Section 4.41 is found in Part 4 of the *Regulation*, which pertains to general worksite conditions, and is specifically found in that portion of Part 4 that pertains to work area requirements. The section provides that refuse, spills, and waste material must not be allowed to accumulate so as to constitute a hazard.

I note that section 1.1(1) of the *Regulation* defines a “hazard” to mean a thing or condition that may expose a person to a risk of injury or occupational disease. According to the Board officer’s August 24, 2024 Inspection Report, he observed concrete debris in two locations at the construction site, where concrete had been chipped out to facilitate the installation of electrical services. Photographs taken by the Board officer during the inspection bear this out: they show concrete debris on the ground, near and underneath what appears to be electrical work. I note that the applicant does not dispute that there was concrete waste material left in the area where it had been doing electrical work. It also does not dispute that it created that concrete waste material during the installation of electrical work.

In his inspection report, the Board officer indicated that such concrete waste material contains silica, which could present an exposure hazard for workers in the area. Given the broad definition of “hazard” in the *Regulation*, I am satisfied that such silica-containing concrete waste material could constitute a hazard. I am also satisfied that concrete waste material had been allowed to accumulate by the employer.

The employer submits that its work scope, as per its contract, is limited to electrical installation and electrical safety only. The employer further submits that the drywall debris cleaning, including the concrete waste material removal from the site, was not included in its scope of work, but rather “may be the responsibility of a separate contractor or agency hired for this purpose.”

I have considered the employer’s submission on this point, but I note that the employer has not provided a copy of the contract it refers to, nor has it provided any details about the “separate contractor or agency” that it says may have had responsibility for the cleanup of the concrete waste removal. Without such information, I am not able to place a great deal of weight on the employer’s submission.

The evidence indicates that the employer created the concrete waste material that was observed by the officer, as a result of chipping to install the electrical

work. In my view, having created that waste material, it was the responsibility of the employer to clean it up, such that it would not accumulate so as to constitute a hazard. I find that the silica in that concrete waste material did create a potential exposure hazard.

I find, therefore, that the employer was in breach of section 4.41 of the *Regulation*, and the order under that section was therefore appropriately issued.

I deny the employer's request.

### **Conclusion**

As a result of this review, I confirm the Board's August 24, 2024 order.

Megan Nodwell  
Review Officer  
Review Division