



**New Jersey Department of Labor  
and Workforce Development,  
Petitioner,**

**v.**

**Robert Scouler Plumbing and,  
Heating, Inc.,  
Respondent**

**STATE OF NEW JERSEY  
DEPARTMENT OF LABOR  
AND  
WORKFORCE DEVELOPMENT**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
COMMISSIONER**

**OAL DKT. NO. LID 06942-2021  
AGENCY DKT. NO. N/A**

**Issued: October 20, 2022**

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The New Jersey Department of Labor and Workforce Development (Department or petitioner) notified Robert Scouler Plumbing and Heating, Inc. (Scouler or respondent) that respondent's application for renewal of its public works contractor registration had been denied for failure of respondent to certify to its participation in a registered apprenticeship program, as required under the New Jersey Public Works Contractor Registration Act (CRA), N.J.S.A. 34:11-56.48, et seq.; specifically, N.J.S.A. 34:11-56.52. Respondent requested a hearing with regard to the application denial and the matter was transmitted to the Office of Administrative law for a hearing before Administrative Law Judge (ALJ) Carl V. Buck III.

Prior to a hearing, petitioner filed a motion before the ALJ, pursuant to N.J.A.C. 1:1-12.5, for summary decision. According to the ALJ, during oral argument on the motion for summary decision, Mr. Scouler stated "that he was now retired and was moving forward with [his] appeal [only] to assist his fellow plumbers." Following the oral argument, petitioner amended its motion to include mootness as a basis for summary decision. The ALJ granted petitioner's motion for summary decision, dismissing respondent's appeal with prejudice, "because the issue raised is now moot." Respondent, Scouler, filed exceptions to the ALJ's initial decision. Petitioner filed a reply.

In its exceptions, respondent takes issue with the dismissal of his appeal on the basis of mootness, stating, "why would [the Deputy Attorney General representing the Department] assume

because of my age and because I am of retirement age, [that] I am discontinuing work. At this time, I maintain all my credentials and continue to work as it becomes available.”

In its reply, petitioner states the following:

“At no time did DOL, or its counsel, argue that the issue was moot cause of Mr. Scouler’s age. Rather, based upon his own testimony that he is retired and no longer affected by the decision, the ALJ correctly found that any further proceedings ‘would be a hypothetical exercise.’” Initial Decision, at 4.

Upon *de novo* review of the record, and after consideration of the ALJ’s initial decision, I hereby accept and adopt the findings of fact, conclusions and recommendation contained in the ALJ’s decision. I would like to add that in light of the exceptions filed by Mr. Scouler, I did obtain and review in its entirety a sound recording of the oral argument on the motion for summary decision. My review of the sound recording confirmed that (1) no mention was made by either party, or by the ALJ, of Mr. Scouler’s age, and (2) Mr. Scouler made the following statement under oath: “I am actually retired, so it’s not going to hurt me in the least, but I was reaching out for my fellow members of my trade,” adding, “I think I fought the good fight on this and sometimes it is just time to walk away.”

### **ORDER**

Therefore, it is hereby ordered that the Department’s denial of respondent’s application for renewal of its public works contractor registration be affirmed and that respondent’s appeal be dismissed.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum

DECISION RENDERED BY THE  
COMMISSIONER, DEPARTMENT OF  
LABOR AND WORKFORCE DEVELOPMENT



Robert Asaro-Angelo, Commissioner  
Department of Labor and Workforce Development

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