

<p>IN THE MATTER OF THE CLAIM</p> <p>OF MICHAEL LAWRENCE,</p> <p>CLAIMANT</p> <p>AGAINST THE MARYLAND HOME</p> <p>IMPROVEMENT GUARANTY FUND</p> <p>FOR THE ALLEGED ACTS OR</p> <p>OMISSIONS OF CHAD GRINDER,</p> <p>T/A FIRST CHOICE HOME</p> <p>SERVICES, LLC</p> <p>RESPONDENT</p>	<p>* BEFORE RICHARD O'CONNOR,</p> <p>* ADMINISTRATIVE LAW JUDGE,</p> <p>* THE MARYLAND OFFICE</p> <p>* OF ADMINISTRATIVE HEARINGS</p> <p>* </p> <p>* </p> <p>* </p> <p>* OAH No.: LABOR-HIC-02-19-24759</p> <p>* MHIC No.: 19 (90) 248</p> <p>* </p>
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PROPOSED DEFAULT ORDER

On November 30, 2018, Michael Lawrence (Claimant) filed a claim with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund) for reimbursement of \$1,250.00 for alleged actual losses suffered as a result of a home improvement contract with Chad Grinder, trading as First Choice Home Services, LLC (Respondent). Md. Code Ann., Bus. Reg. §§ 8-401 through 8-411 (2015). On July 29, 2019, the MHIC issued a Hearing Order on the claim. On August 1, 2019, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

The OAH issued notices of hearing to the Claimant and the Respondent on December 9, 2019 by certified and first-class mail at their addresses of record. Code of Maryland Regulations (COMAR) 09.08.03.03A(2). The notices stated that a hearing was scheduled for January 24,

2020, at 10:00 a.m. at a location in the Prince George's County government office complex in Landover, Maryland, and that failure to attend the hearing might result in "a decision against you."

The U.S. Postal Service returned both parties' certified mail notices to the OAH marked "Unclaimed." The notices sent by first-class mail were not returned. On January 14, 2020, the OAH issued amended notices of hearing to the Claimant and the Respondent by certified and first-class mail at their addresses of record providing a slight change to the location of the hearing in the Prince George's County government office complex. The date and time of the hearing remained unchanged. As of the date of the hearing, none of the notices sent on January 14, 2020 had been returned undelivered.

On January 22, 2020, the Claimant emailed a request for postponement of the hearing to the OAH, stating that he had recently moved to Massachusetts and could not travel to the hearing location because of a "health issue at this time due to complications from a newly prescribed blood pressure medication." The request did not include any medical documentation or a note from a medical provider indicating that the Claimant was unable to travel.

COMAR 28.02.01.16 governs requests for postponement. In pertinent part, it states:

A. Except as provided in §D of this regulation, a request for postponement shall be made in writing and filed with the Office not fewer than 5 days before the scheduled hearing.

B. Documentation of the reasons for the postponement shall be required from the party making the request.

C. A request for postponement shall be granted only if the party requesting the postponement establishes good cause for the postponement.

D. Emergency Request for Postponement.

(1) For purposes of this section, “emergency” means a sudden, unforeseen occurrence requiring immediate attention which arises within 5 days of the hearing.

(2) In an emergency, a request for postponement may be made by telephone to the Office and promptly supported by documentation of the reason for the request.

On January 22, 2020, I denied the request for postponement because (1) the Claimant had provided no documentation of the medical issue that prevented him from traveling; and (2) the request did not establish that an emergency had occurred. My secretary communicated the denial and the reasons therefor to the Claimant in the afternoon of January 22, 2020.

On January 24, 2020, I conducted the hearing as scheduled at the location stated in the notices of hearing sent on January 14, 2020. Md. Code Ann., Bus. Reg. § 8-407 (2015). Shara Hedler, Assistant Attorney General, Department of Labor, was present to represent the Fund. The Respondent was present without counsel. The Claimant did not appear and at 10:20 a.m. I convened the hearing without the Claimant present.

The Claimant has the burden of proving the validity of the claim by a preponderance of the evidence. Md. Code Ann., Bus. Reg. §8-407(e)(1) (2015); Md. Code Ann., State Gov’t §10-217 (2014); COMAR 09.08.03.03A(3). The Respondent¹ moved for a default order dismissing the claim, without objection by the Fund. COMAR 28.02.01.23A.² I granted that motion on the record after determining that the Claimant had received proper notice of the hearing and had failed to appear.

¹ The Respondent is a party to the case. COMAR 09.01.02.02B(15).

² “If, after receiving proper notice, a party fails to attend or participate in a . . . hearing, . . . the ALJ . . . may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party.”

I therefore **PROPOSE** that the Maryland Home Improvement Commission issue a **DEFAULT ORDER** as follows:

1. The Claimant is in default; and
2. All further proceedings in the captioned matter are **TERMINATED**, and a disposition of **DISMISSAL** is entered in this case, pursuant to COMAR 28.02.01.23A.

January 30, 2020
Date Order Issued

CONFIDENTIAL

Richard O'Connor
Administrative Law Judge

ROC/kdp
#184260

PROPOSED ORDER

WHEREFORE, this 6th day of April, 2020, Panel B of the Maryland Home Improvement Commission approves the Recommended Order of the Administrative Law Judge and unless any parties files with the Commission within twenty (20) days of this date written exceptions and/or a request to present arguments, then this Proposed Order will become final at the end of the twenty (20) day period. By law the parties then have an additional thirty (30) day period during which they may file an appeal to Circuit Court.

Joseph Tunney

Joseph Tunney

Chairman

Panel B

*MARYLAND HOME IMPROVEMENT
COMMISSION*

