

Before the  
Administrative Hearing Commission  
State of Missouri



RYAN L. ROLLEY,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 14-1860 DH
	)	
DEPARTMENT OF HEALTH &	)	
SENIOR SERVICES,	)	
	)	
Respondent.	)	

**DECISION**

Ryan L. Rolley is not qualified for licensure as a lead abatement supervisor.

**Procedure**

On December 1, 2014, Rolley filed a complaint appealing the decision of the Department of Health and Senior Services (“the Department”) denying his application for licensure. On December 11, 2014, the Department filed a motion for involuntary dismissal of Rolley’s appeal. At the same time it filed its motion, the Department notified Rolley of further options available to him to seek the desired license. Because the motion to dismiss relies on material outside Rolley’s letter of complaint to this Commission, we consider it a motion for summary decision. 1 CSR 15-3.436(4)(A).<sup>1</sup> Regulation 1 CSR 15-3.446(6) provides that we may decide this case

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<sup>1</sup>All references to the CSR are to the Missouri Code of State Regulations as current with amendments, included in the Missouri Register through the most recent update.

without a hearing if the Department establishes facts that Rolley does not dispute and entitle the Department to a favorable decision.

We gave Rolley until December 30, 2014, to respond to the motion, but he did not respond. The following facts are undisputed.

### **Findings of Fact**

1. Rolley applied for licensure as a lead abatement supervisor on May 6, 2014 and was approved for examination on May 9, 2014.
2. As of November 4, 2014, Rolley had neither taken nor achieved a passing score on the lead abatement supervisor exam.
3. By letter dated November 4, 2014, the Department denied his application.

### **Conclusions of Law**

This Commission has authority to decide professional licensing matters as set forth in § 621.045.1,<sup>2</sup> which states:

The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by [an agency that has the power to issue, revoke, suspend, or place on probation any license] may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his or her qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination[.]

Section 621.120, RSMo 2000, specifically authorizes an applicant who has been denied a license to file a complaint with this Commission, setting forth that the applicant is qualified for licensure, and authorizes us to hold a hearing on such a complaint. Regulation 19 CSR 30-70.160(4)(A)4 provides that applicants for a lead abatement supervisor license who are

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<sup>2</sup> Statutory references are to the RSMo Supp. 2013 unless otherwise indicated.

aggrieved by a denial may appeal to this Commission. Thus, the applicant has the burden to show he is entitled to a license. Rolley states in his complaint that he has not taken the examination required for licensure.

When an applicant for licensure files a complaint, the agency's answer provides notice of the grounds for denial of the application. *Ballew v. Ainsworth*, 670 S.W.2d 94, 103 (Mo. App. E.D. 1984). In this matter, the motion for involuntary dismissal and the Department's November 4, 2014 letter of denial each sets forth the reason Rolley is being denied a license: Regulation 19 CSR 30-70.160(4)(B) requires applicants to attain a passing score on the state lead abatement supervisor examination within 180 days of being approved to take it. Rolley failed to take the examination in the time allowed and is not qualified for licensure.

#### **Summary**

We grant the Department's motion. Rolley is not qualified for licensure. We cancel the hearing.

SO ORDERED on January 16, 2015.

*\s\ Audrey Hanson McIntosh*  
AUDREY HANSON MCINTOSH  
Commissioner