

Delaware Department of Agriculture
Pesticides Section, Enforcement
2320 South DuPont Highway
Dover, Delaware 19901
Enforcement Action/Violation

Respondent:

Greenville Place LLC
248-B Presidential Drive
Greenville, DE 19807

Violations:

§1224(b)(1) – The first offense of 1224 (a)(1) Use or Application Inconsistent with the Labeling
§1224(c)(1) – Operating in a faulty, careless, or negligent manner.

Penalty:

Respondent signed a consent agreement on September 18th 2017. In the agreement, Respondent agrees to the imposition of disciplinary sanctions which included a civil penalty of \$1,560.00 (One Thousand Five Hundred Sixty dollars).

STIPULATED FACTS

1. Greenville Place Apartments (“Respondent”) is an apartment complex with a mailing address of. 248-B Presidential Drive, Greenville, DE 19807. The physical address where the complaint took place is Greenville Place Apartments.
2. Kelly VanDyke (“VanDyke”) is the property manager for Respondent. Bernie Robinson work in the maintenance department for Respondent.
3. The Pesticide Section of the Department (“Complainant”) is bringing this enforcement action against Respondent. Stephen McReynolds (McReynolds) is employed as an Environmental Scientist II with the Department.
4. On July 10th 2017, the Department received a phone call from Jonathan Mason. Mr. Mason was calling to report the possible misuse of pesticide in his apartment complex. Mr. Mason stated that he had reported to the property manager that squirrels were in the attic of his building. He stated that the maintenance staff had placed moth balls in the attic of the building and that he was feeling ill due to the fumes in his apartment. Mr. Mason supplied medical records to substantiate his trip to a medical facility for evaluation due to exposure.

5. On July 11th 2017, McReynolds arrived at the office and spoke with Kelly VanDyke about the application. VanDyke stated that one of the maintenance men applied moth balls to the attic. She named Bernie Robinson as the person who made the application. Mr. Robinson was not present during this meeting. VanDyke said that Mr. Robinson would be into work later that day.
6. On July 11th 2017, McReynolds met with the complainant, Jonathan Mason. Upon arrival at Mr. Mason's apartment building McReynolds noticed the smell of moth balls. Mr. Mason presented McReynolds with a packet containing moth ball residue that he found at the entrance of the attic. McReynolds photographed the packet. Mr. Mason had also gone to the store and found the moth balls that matched the packet he found. Mr. Mason photographed the labels in the store. Mr. Mason also gave a copy of a certified letter he had sent to the office explaining the odor and health concerns. That letter was dated July 5th 2017.
7. On July 11th 2017, McReynolds received a phone call from Mr. Robinson; he told McReynolds that he was at work. McReynolds returned to the apartment complex office and met with VanDyke and Robinson. During this meeting Mr. Robinson identified the product that he had used in the attic as Enos Old Fashion Moth Balls, EPA Reg. No. 1475-74. He stated that he had applied the moth balls in the attic at the end of April. Mr. Robinson also stated that he had removed the moth balls from the ventilated packets and spread them around the attic. Mr. Robinson is not certified in category 7E Institutional and Maintenance. This category covers pesticide applications made by maintenance personnel to properties owned by employer outlined in Section 21.0 of the Delaware Pesticide Rules and Regulations.
8. Section 21.3 of the Delaware Pesticides Rules and Regulations states: An owner or manager of a building that is a school, apartment building, nursing home, hospital, or child daycare center may obtain Institutional and Maintenance pest control services for the building from a person only by:

21.3.1 Contracting with a business licensed pursuant to 3 *Del.C. §1206*;

21.3.2 Having the services performed by an Institutional and Maintenance applicator with a valid certification in 7.7.1.1 or 7.7.1.5 of these regulations.

9. **Enos Old Fashion Moth Balls**, EPA Registration Number 1475-74, is registered for sale and use in the State of Delaware by the Department. The label of Enos Old Fashion Moth Balls states, in part:
 - a. "NOT FOR USE TO CONTROL SQUIRRELS, BATS AND BIRDS INSIDE THE HOME"
 - b. "May be fatal if inhaled."

- c. "Do not open packets."
- d. "Apply product in clean, airtight containers, bags and closets"