

LAKE MOHEGAN FIRE DISTRICT

Docket No. PES 09-018

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of:

LAKE MOHEGAN FIRE DISTRICT,

Petitioner,

To Review Under Section 101 of the Labor Law:
A Notice of Violation and Order to Comply and an
Amended Notice of Violation and Order to Comply,
both dated September 9, 2009

- against -

THE COMMISSIONER OF LABOR,

Respondent.

DOCKET NO. PES 09-018

RESOLUTION OF DECISION

APPEARANCES

Lamb & Barnosky, LLP, Richard K. Zukerman of Counsel, for Petitioner.

Maria L. Colavito, Counsel, NYS Department of Labor, Benjamin T. Garry of Counsel, for Respondent.

WHEREAS:

1. Pursuant to Labor Law Section 101 and Part 66 of the Board's Rules of Procedure and Practice (Rules), on November 6, 2009, the Petitioner commenced the above proceeding by filing a petition for review of a Notice of Violation and Order to Comply and an Amended Notice of Violation and Order to Comply, both dated September 9, 2009, that Respondent Commissioner of Labor (Commissioner) issued against the Petitioner; and
2. By letter dated February 23, 2010, Petitioner through counsel advised the Board that the Petitioner was withdrawing the petition based on its understanding that the Department of Labor had found that Petitioner had successfully abated all of the citations in the Notice of Violation and Order to Comply and the Amended Notice of Violation and Order to Comply; and

3. By letter dated March 2, 2010, the Board advised the Commissioner that the Petitioner was withdrawing its petition and the basis for Petitioner's decision to withdraw the petition; and
4. By letter dated March 16, 2010, counsel for the Commissioner confirmed to the Board that the Petitioner had successfully abated the citations in the Notice of Violation and Order to Comply and the Amended Notice of Violation and Order to Comply; and
5. Rule 65.15 provides that "[a]t any stage of a proceeding, a party may withdraw his Petition . . . subject to the approval of the Board; and
6. The Board approves the Petitioner's withdrawal of the petition, finds that further review of the Notice of Violation and Order to Comply and the Amended Notice of Violation and Order to Comply here is unnecessary, and that the proceeding should be discontinued.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The above proceeding be, and the same hereby is, discontinued in accordance with the Board's Rules.



Anne P. Stevason, Chairman



J. Christopher Meagher, Member



Jean Grumet, Member



LaMarr J. Jackson, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
April 21, 2010.