

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:	:
	:
JASON WITOVER AND 5 STAR HOME	:
IMPROVEMENT, INC. (T/A GREEN MACHINE	:
LAWN MAINTENANCE, INC.),	:
	:
Petitioners,	:
	:
To Review Under Section 101 of the Labor Law:	:
Order to Comply #09-00059 dated January 22, 2009,	:
	:
- against -	:
	:
THE COMMISSIONER OF LABOR,	:
	:
Respondent.	:
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DOCKET NO. PR 09-059

RESOLUTION OF DECISION

APPEARANCES

Jason Witover, *pro se* Petitioner.

WHEREAS:

1. On March 26, 2009, the Board received a petition in the above-captioned matter enclosed in an express mail envelope post-marked March 25, 2009. The Petition seeks review of an Order that the Commissioner of Labor (Commissioner) issued against the Petitioner on January 22, 2009; and
2. Labor Law § 101 provides that a petition for review must be filed with the Board no later than sixty days after the issuance of the order to be reviewed. The sixtieth day after the Orders here were issued was March 23, 2009. Therefore, the Petition, filed on March 25, 2009, was untimely; and
3. By letter dated April 2, 2009, enclosing a copy of the Rules, the Petitioner was requested to file a written explanation of why it is contended that the petition in this matter is not untimely, on or before April 27, 2009. To date Petitioner failed to file a written explanation; and
4. The Petition in this matter is dismissed as untimely.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

This proceeding be, and the same hereby is, dismissed in accordance with Labor Law § 101 and the Board's Rules of Procedure and Practice.

Anne P. Stevason, Chairman

J. Christopher Meagher, Member

Mark G. Pearce, Member

Jean Grumet, Member

LaMarr J. Jackson, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York, on
June 18, 2009.