

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 JOHN ODE, :
 :
 Petitioner, :
 :
 To Review Under Section 101 of the Labor Law: :
 A determination of the Commissioner of Labor :
 dated May 6, 2010, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
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DOCKET NO. PR 10-191
RESOLUTION OF DECISION

APPEARANCES

John Ode, *pro se* petitioner.

Maria L. Colavito, Counsel, NYS Department of Labor, Benjamin A. Shaw of Counsel, for Respondent.

WHEREAS:

On June 16, 2010, the petitioner filed a petition to review the respondent's decision of May 6, 2010 to not pursue a wage claim filed by the petitioner. The respondent moved on August 17, 2010 to dismiss because the Board does not have jurisdiction to review a decision by the Commissioner of Labor (Commissioner) to not pursue a claim. In *Matter of Toohey*, PR 09-223 (January 27, 2010), we held that under Labor Law § 101, the Board only has jurisdiction to review rules, regulations or orders made by the Commissioner, and found that we did not have authority to review a decision by the Commissioner to withdraw an order issued against the claimant's employer, because such determination was not a rule, regulation, or order. We find that here, as in *Toohey*, the Commissioner's decision to not pursue the petitioner's claim is not a rule, regulation or order, and therefore cannot be reviewed by the Board under Labor Law § 101. Since we have no jurisdiction in this matter, the petition must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

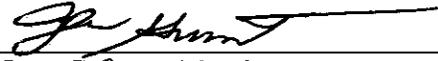
1. The Petition for Review be, and the same hereby is, denied.



Anne P. Stevason, Chairman



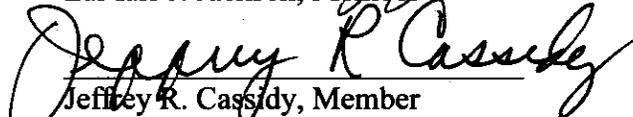
J. Christopher Meagher, Member



Jean Grumet, Member



LaMarr J. Jackson, Member



Jeffrey R. Cassidy, Member

Dated and signed in the Office of
the Industrial Board of Appeals,
at New York, New York, on
April 27, 2011.