STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of: PAT RUPPERT, Petitioner, To Review Under Section 101 of the Labor Law: An Order to Comply # 10-01287 dated December 1, 2010, - against - THE COMMISSIONER OF LABOR, Respondent.	DOCKET NO. PR 10-383 RESOLUTION OF DECISION ON APPLICATION FOR RECONSIDERATION

APPEARANCES

Patrick Ruppert, petitioner pro se.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Michael Paglialonga of counsel), for respondent.

WHEREAS:

On December 8, 2010, the petitioner filed a petition for review of orders issued by respondent Commissioner of Labor (Commissioner); however, copies of the orders were not attached. By letter dated January 3, 2011 enclosing a copy of the Board's Rules of Practice and Procedure (Rules) (12 NYCRR Part 66), the Board directed the petitioner to file an amended petition and a copy of the orders sought to be reviewed in accordance with the Rules. The letter directed the petitioner to file his amended petition on or before January 31, 2011, or the appeal may be dismissed without further notice.

By Resolution of Decision dated April 27, 2011, the Board dismissed this matter due to the petitioner's failure to comply with the Board's directive to file an amended petition on or before January 31, 2011. The petitioner filed a Motion for Reconsideration June 11, 2011 stating that he did not receive the Board's letter directing him to file an amended petition. Since the original petition appears to have been timely filed, we grant the Motion for Reconsideration and direct the petitioner to file an amended petition with the Board within 35 days of the date of this Resolution of Decision.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Petitioners' motion for reconsideration is granted; and

2. The Board's Resolution of Decision in this matter issued April 27, 2011 is revoked; and

3. The petitioner is directed to file an amended petition with the orders for review attached within 35 days of this Resolution of Decision; and

4. The Board will serve the amended petition on the Commissioner in accordance with the Rules; and

5. The Commissioner of Labor's response to the petition shall be filed with the Board in accordance with the Rule 66.5.

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
January 30, 2012.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Petitioners' motion for reconsideration is granted; and

2. The Board's Resolution of Decision in this matter issued April 27, 2011 is revoked; and

3. The petitioner is directed to file an amended petition with the orders for review attached within 35 days of this Resolution of Decision; and

4. The Board will serve the amended petition on the Commissioner in accordance with the Rules; and

5. The Commissioner of Labor's response to the petition shall be filed with the Board in accordance with the Rule 66.5.

Anne P. Stevason, Chairman

J. Christopher Meagher, Member

Jean Grumet, Member

LaMarr J. Jackson, Member

Jeffrey R. Cassidy, Member

Dated and signed by a Member
of the Industrial Board of Appeals
at Rochester, New York, on
January 30, 2012.