

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :  
 :  
 JOHN M. MARRA AND LONG ISLAND :  
 EMERGENCY SERVICES, :  
 :  
 Petitioners, :  
 :  
 To Review Under Section 101 of the Labor Law: An :  
 Order to Comply with Article 19 of the Labor Law :  
 and an Order Under Article 19 of the Labor Law, :  
 both dated December 17, 2010, :  
 :  
 - against - :  
 :  
 THE COMMISSIONER OF LABOR, :  
 :  
 Respondent. :  
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DOCKET NO. PR 11-043

RESOLUTION OF DECISION

**APPEARANCES**

John M. Marra, *pro se*, for Petitioners.

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

**WHEREAS:**

This proceeding was commenced when the petitioner filed a petition with the Industrial Board of Appeals (Board) on February 18, 2011. The petition was served on the respondent Commissioner of Labor (Commissioner) on February 28, 2011. The Commissioner moved on April 4, 2011 to dismiss the petition as untimely because it was filed more than 60 days after the orders were issued. The petitioners opposed the motion on the ground that they did not receive the orders until "later" in December and believed they had 60 days from the date they received the orders to file their appeal. However, we have held that the time for measuring the time for filing a petition is from the date that the orders are issued (*see Matter of Randall Friedman*, PR 10-175 [April 27, 2011]). Additionally, ignorance of the law does not excuse the untimely filing of a petition.

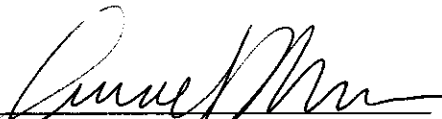
Labor Law § 101 (1) states that:


“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner. . . . Such petition shall be filed with the board no later than sixty days after the issuance of such . . . order.”

The orders sought to be reviewed were issued on December 17, 2010, and therefore, any petition for review filed with the Board after February 15, 2011 would be untimely (Board Rules of Procedure and Practice 65.5 and 65.3 [a]; [12 NYCRR 65.5 and 65.3 (a)]). As the petition in this proceeding was not received by the Board until February 18, 2011, it was untimely. Accordingly, the petition must be dismissed.

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:**

The Commissioner of Labor’s motion to dismiss the petition for review is granted in its entirety, and the petition for review be, and the same hereby is, dismissed.

  
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Anne P. Stevason, Chairperson

  
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J. Christopher Meagher, Member

  
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Jean Grumet, Member

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LaMarr J. Jackson, Member

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Jeffrey R. Cassidy, Member

Dated and signed in the Office  
of the Industrial Board of Appeals  
at New York, New York, on  
July 26, 2011.

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Jeffrey R. Cassidy, Member

Dated and signed in the Office  
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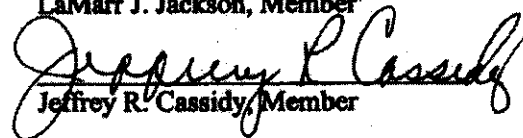
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Jeffrey R. Cassidy, Member

Dated and signed in the Office  
of the Industrial Board of Appeals  
at Albany, New York, on  
July 26, 2011.