

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

GMA MECHANICAL CORP., AND GINA
YANUCCI,

Petitioners,

To Review Under Section 101 of the Labor Law:
An Order to Comply # 11-00172

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 11-082

RESOLUTION OF DECISION
GRANTING APPLICATION
FOR RECONSIDERATION

APPEARANCES

Gina Yanucci, petitioner *pro se* and for GMA Mechanical Corp.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Benjamin A. Shaw of counsel), for respondent.

WHEREAS:

On March 21, 2011, the petitioners filed a letter enclosing paperwork showing that a former employee had been paid; however, copies of the orders were not attached. By letter dated March 29, 2011, enclosing a copy of the Board's Rules of Practice and Procedure (Rules) (12 NYCRR Part 66), the Board directed the petitioners to file an amended petition and a copy of the orders sought to be reviewed in accordance with the Rules. The letter directed the petitioners to file their amended petition on or before April 28, 2011.

No amended petition having been filed, the Board dismissed the matter by Resolution of Decision dated September 9, 2011. The petitioners filed a letter which the Board treated as a Motion for Reconsideration dated September 30, 2011 and received by the Board on October 17, 2011 stating that it had not received the March 29, 2011 letter directing it to file an amended petition.

Respondent has opposed the motion based on the presumption that a letter sent in the mail was received. In its Affirmation in Opposition, Respondent also stated that the date of the original order was February 25, 2011.

Since the letter filed on March 21, 2011, which the Board has treated as a petition, was otherwise timely filed, we grant the Motion for Reconsideration.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

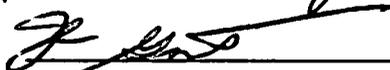
1. The petitioners' motion for reconsideration is granted; and
2. The Board's Resolution of Decision in this matter issued September 9, 2011 is revoked; and
3. The petitioners must file an amended petition with the Board, which includes a copy of the orders to comply, and which otherwise complies with Board Rule 66.3 within 30 days of the date of this 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 answer to the amended petition shall be filed with the Board in accordance with the Rule 66.5.



Anne P. Stevason, Chairman

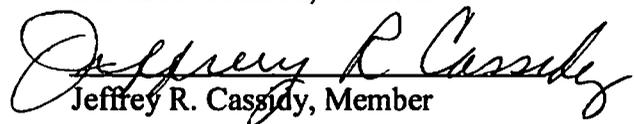


J. Christopher Meagher, Member



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
March 29, 2012.



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