

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 RUDY ROSENBERG, :
 :
 Petitioner, :
 :
 To Review Under Section 101 of the Labor Law: :
 A determination of the Commissioner of Labor :
 dated July 16, 2013, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
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DOCKET NO. PR 13-125

RESOLUTION OF DECISION

APPEARANCES

Rudy Rosenberg, petitioner *pro se*.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Matthew Robinson-Loffler of counsel), for respondent.

WHEREAS:

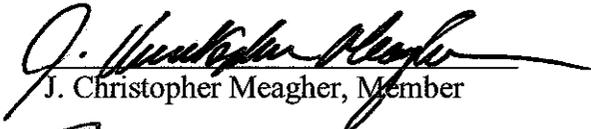
On August 19, 2013, the petitioner filed a petition to review the respondent's decision of July 16, 2013 to not pursue a claim filed by the petitioner. The respondent moved on October 2, 2013 to dismiss the petition because the Board does not have jurisdiction to review a decision by the Commissioner 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 (*see also Matter of Ode*, PR 10-191 [April 27, 2011] [no jurisdiction to review determination of Commissioner to not pursue a claim]. We find that here, as in *Toohey* and *Ode*, 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:

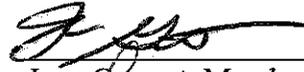
1. The Petition for Review be, and the same hereby is, denied.



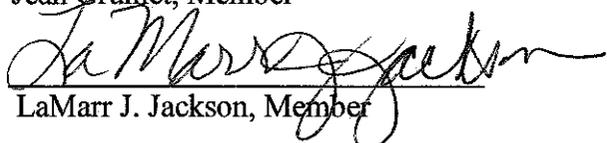
Anne P. Stevason, Chairman



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
January 16, 2014.