

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :
 :
JAMESON ROOFING COMPANY, :
 :
 :
Petitioner, :
 :
 :
To Review Under Section 101 of the Labor Law: An : DOCKET NO. PR 15-160
Order Under Article 25B of the Labor Law, dated :
March 18, 2015, : RESOLUTION OF DECISION
 :
- against - :
 :
THE COMMISSIONER OF LABOR, :
 :
 :
Respondent. :
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APPEARANCES

R. Shane Uber, Esq., General Counsel for Jameson Roofing Company, for petitioner.

Pico Ben-Amotz, Counsel, NYS Department of Labor (Benjamin T. Garry of counsel), for respondent.

WHEREAS:

This proceeding was commenced when petitioner filed a petition with the Industrial Board of Appeals (Board) on May 22, 2015 in an envelope postmarked May 19, 2015. The Board served the petition on respondent Commissioner of Labor on May 29, 2015. Respondent moved on June 16, 2015 to dismiss the petition as untimely because it was filed more than 60 days after the orders being appealed were issued. Petitioner did not reply to the motion.

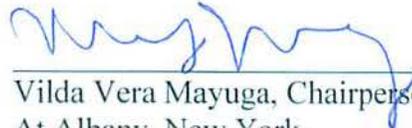
Labor Law § 101 (1) states that:

“[e]xcept 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.”

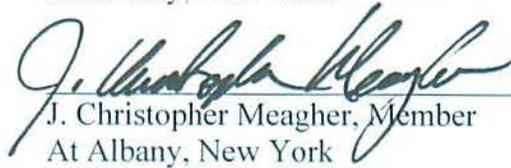
The order sought to be reviewed was issued on March 18, 2015, and therefore, any petition for review filed with the Board with a post-mark after May 18, 2015 is untimely (*id.*; Board Rules of Procedure and Practice 65.5 [d] [12 NYCRR 65.5 (d)]; Board Rules of Procedure and Practice 65.3 [a] [12 NYCRR 65.3 (a)]). As the petition in this proceeding was post- marked after May 18, 2015, it was filed late and must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

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



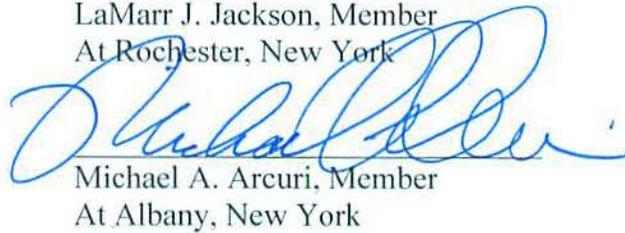
Vilda Vera Mayuga, Chairperson
At Albany, New York



J. Christopher Meagher, Member
At Albany, New York

Absent

LaMarr J. Jackson, Member
At Rochester, New York



Michael A. Arcuri, Member
At Albany, New York

Dated and signed by the Members
of the Industrial Board of Appeals
on October 28, 2015.

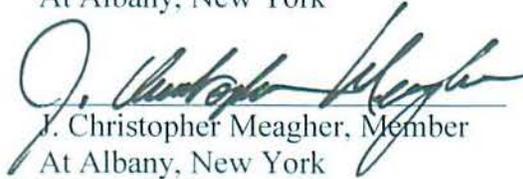
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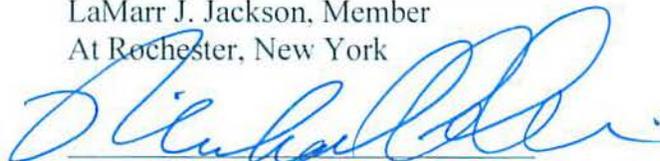
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