

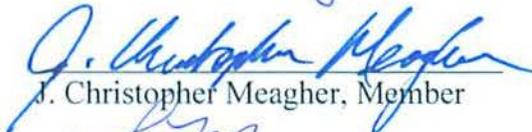
dismiss. The motion to strike is denied because respondent's answer to the petition was filed according to our direction to respondent to answer by January 20, 2016.

Labor Law § 101 (1) provides that a petition for review of orders issued by the Commissioner must be filed within 60 days of the date the orders were issued. Under Labor Law § 33, respondent is permitted to serve orders by mail at a petitioner's last known place of business so long as the mailing is reasonably calculated to give notice (*Matter of Gambino et al.*, PR 10-150 at 3 n1 [Nov. 18, 2010]). Petitioner admits that the Commissioner served the orders at 51 Bank Street. Petitioner further admits that petitioner's place of business is located at 51 Bank Street, New York, NY 10014. Petitioner argues that "the mail system at the [Bank Street] location does not work well." A statement of non-receipt alone is insufficient to overcome the presumption of proper mail service and due receipt (*Matter of Astor et al.*, PR 08-056 at 2 [March 24, 2010]). Moreover petitioner acknowledges receipt of the orders at its business address. Given that the orders were served by mail at petitioner's last known place of business, we find that respondent's service at 51 Bank Street was effective pursuant to Labor Law § 33. As the petition in this proceeding was filed late and petitioner has not shown service was improper, the petition must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Petitioner's cross-motion to strike respondent's motion to dismiss is denied; and
2. The Commissioner of Labor's motion to dismiss the petition for review is granted; and
3. The petition for review be, and the same hereby is, dismissed.


 Vilda Vera Mayuga, Chairperson


 J. Christopher Meagher, Member


 LaMarr J. Jackson, Member


 Michael A. Arcuri, Member

Dated and signed by the Members
 of the Industrial Board of Appeals
 at Albany, New York
 on April 13, 2016.