

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :
 :
VIWAT JONGVISHAYASAWACH A/K/A VIWAT :
SAWACH AND NOTE THAI CORP., :
 :
 :
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 Articles 6 and 19 of the :
Labor Law, both dated January 26, 2015, :
 :
 :
- against - :
 :
THE COMMISSIONER OF LABOR, :
 :
 :
Respondent. :
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DOCKET NO. PR 15-405
RESOLUTION OF DECISION

APPEARANCES

Jeffrey J. Ruan, Esq., for petitioners.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Kathleen Dix of counsel), for respondent.

WHEREAS:

This proceeding was commenced when petitioners filed a petition with the Industrial Board of Appeals (Board) on December 21, 2015 in an envelope post-marked December 18, 2015. The Board served the petition on respondent Commissioner of Labor on December 22, 2015. Respondent moved on January 21, 2016, to dismiss the petition as untimely because it was filed more than 60 days after the orders being appealed were issued. Petitioners did not reply to the motion.

Labor Law § 101 (1) provides that:

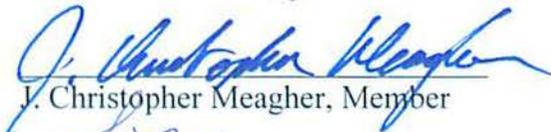
“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner Such petition shall be filed with the board no later than sixty days after the issuance of such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

The orders sought to be reviewed were issued on January 26, 2015, and therefore, any petition for review filed with the Board with a post-mark after March 27, 2015 is untimely (*id.*; Board Rules of Procedure and Practice 65.5 [d] [12 NYCRR 65.5 (d)]). As the petition in this proceeding was post-marked after March 27, 2015, it was filed late and must be dismissed.

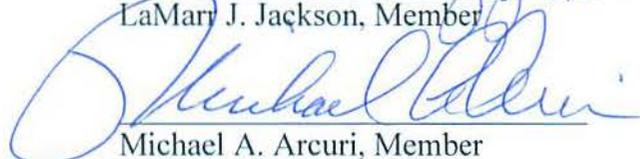
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

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


J. Christopher Meagher, Member


LaMary 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.