

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

ALMA FELICIES, GRACIELA VELEZ,¹ AND
CHINELOS II CORP.,

Petitioners,

To Review Under Section 101 of the Labor Law:
An Order To Comply With Article 19, and an Order
Under Articles 5 and 19 of the Labor Law, both dated
March 24, 2016,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 16-075

RESOLUTION OF DECISION

APPEARANCES

Alma Felicies and Graciela Velez, petitioners pro se, and for Chinelos II Corp.

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 June 20, 2016 in an envelope post-marked June 13, 2016. Petitioners amended their petition on July 21, 2016. The Board served the amended petition on respondent Commissioner of Labor on July 28, 2016. Respondent moved on August 26, 2016 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.

Labor Law § 101 (1) provides that:

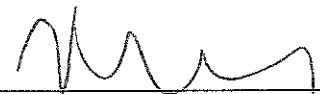
“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner Such petition shall be filed with the board no later than sixty days after the issuance of such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

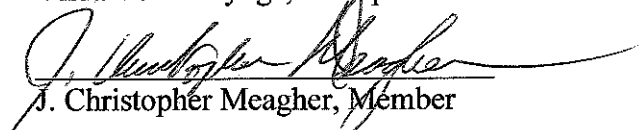
¹ We note that Graciela Velez is not named in the orders to comply being appealed, but she filed the petition together with Alma Felicies specifically naming themselves as petitioners, together with Chinelos II Corp.

The orders sought to be reviewed were issued on March 24, 2016, and therefore, any petition for review filed with the Board with a post-mark after May 23, 2016 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 May 23, 2016, 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 is dismissed.



Vilda Vera Mayuga, Chairperson

J. Christopher Meagher, Member

Michael A. Arcuri, Member

Molly Doherty, Member

Gloribelle J. Perez, Member

Dated and signed by the Members
of the Industrial Board of Appeals
in New York, New York, on
October 26, 2016.