

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

ASIM MOHAMMAD RAFIQI AND KHIALI  
PULAO CORP.,

Petitioners,

To Review Under Section 101 of the Labor Law:  
An Order to Comply with Article 6, An Order to  
Comply with Article 19, and an Order Under Articles  
5,6, and 19 of the Labor Law, all dated December 22,  
2016,

- against -

THE COMMISSIONER OF LABOR,

Respondent.  
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DOCKET NO. PR 17-019

RESOLUTION OF DECISION

**APPEARANCES**

*Asim Mohammad Rafiqi*, petitioner pro se.

*Pico Ben-Amotz*, General Counsel, NYS Department of Labor, Albany (*Roya Sadiqi* of counsel),  
for respondent.

**WHEREAS:**

This proceeding was commenced when petitioner filed a petition with the Industrial Board of Appeals (Board) on February 27, 2017, in an envelope post-marked February 22, 2017. The Board served the petition on respondent Commissioner of Labor on March 7, 2017. Respondent moved on April 4, 2017, to dismiss the petition as untimely because it was filed more than 60 days after the orders being appealed were issued. Petitioner responded on June 22, 2017.

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.”

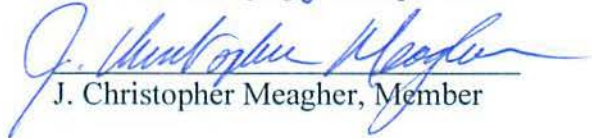
The orders sought to be reviewed were issued on December 22, 2016, and therefore, any petition for review filed with the Board with a post-mark after February 20, 2017, is untimely (*id.*; Board Rules of Procedure and Practice [12 NYCRR] § 65.5 [d]). As the petition in this proceeding was post-marked after February 20, 2017, and in their June 22, 2017, response, petitioners do not allege that service of the underlying orders was improper, the petition was untimely filed 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  
July 26, 2017.