

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

KATHLEEN OLESKO AND KAREN CARD AND  
ONE MORE ROUND, INC. (T/A CITY SQUIRE),

Petitioners,

To Review Under Section 101 of the Labor Law: An  
Order to Comply with Article 6 of the Labor Law and  
an Order Under Article 19 of the Labor Law, each  
dated March 18, 2015,

- against -

THE COMMISSIONER OF LABOR,

Respondent.  
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DOCKET NO. PR 15-162

RESOLUTION OF DECISION

**APPEARANCES**

Karen Card, petitioner pro se and for petitioners.

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

**WHEREAS:**

This proceeding was commenced when petitioners filed a petition with the Industrial Board of Appeals (Board) on May 26, 2015 in an envelope postmarked May 22, 2015. The Board served the petition on respondent Commissioner of Labor on June 1, 2015. Respondent moved on August 5, 2015 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) states that:

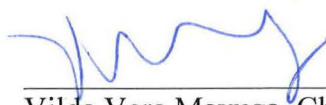
“[e]xcept where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner. . . . Such petition shall be filed with the board no later than sixty days after the issuance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

The orders sought to be reviewed were 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.*;

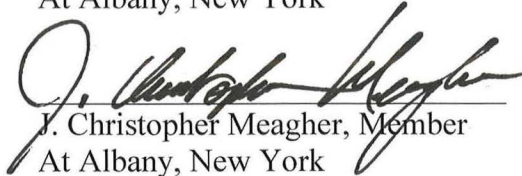
Board Rules of Procedure and Practice 65.5 [d] [12 NYCRR 65.5 (d)] Board Rules of Procedure and Practice 65.3 [a] [12 NYCRR 65.3 (a)]). As the petition in this proceeding was post-marked after May 18, 2015, it was filed late and must be dismissed.

**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.