New York State Industrial Board of Appeals

Anne P. Stevason Chairman

Susan Sullivan-Bisceglia
J. Christopher Meagher
Mark G. Pearce
Jean Grumet
Members



Sandra M. Nahan Deputy Counsel

Devin A. Rice Associate Counsel

Empire State Plaza
Agency Building 2, 20th floor
Albany, New York 12223
Phone: (518) 474-4785 Fax: (518) 473-7533

STATE OF NEW YORK INDUSTRIAL BOARD OF APPEALS		
In the Matter of the Petition of:	x :	
WILLIAM BRENNER AND BRENNER INCOME TAX CENTERS, INC.	: : :	
Petitioner,	:	DOCKET NO. PR 08-016
To Review Under Section 101 of the Labor Law: Two Orders under Article 6 of the Labor Law, dated December 7, 2007,	: : :	RESOLUTION OF DECISION
- against -	:	
THE COMMISSIONER OF LABOR,	: :	
Respondent.	: :	
	X	

WHEREAS:

- 1. On February 12, 2008 the Board received a petition in the above-referenced matter dated February 6, 2008 by United States Postal Service Priority Mail. The petition was served on the Respondent on May 6, 2008; and
- 2. The Respondent filed a motion to dismiss dated June 9, 2008 that was received by the Board on June 12, 2008. Respondent alleges in its motion that the petition should be dismissed as untimely; and
- 3. By letter dated June 13, 2008, the Board required that the Petitioner's response to the motion to dismiss, if any, must be received by the Board no later than June 18, 2008. However, to date, the Petitioner has not responded; and

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- 4. Labor Law § 101 provides that a petition for review must be filed with the Board no later than sixty days after the issuance of the Orders to be reviewed. The Orders to be reviewed were issued by the Respondent on December 7, 2007; therefore the time to appeal expired on February 5, 2008; and
- 5. The Petition is untimely as it was not mailed on or before February 5, 2008, as required by Labor Law § 101 and Board Rules 65.5 (c) and (d).

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

- 1. The Orders to Comply with Article 6 of the Labor Law, dated December 7, 2008 are hereby affirmed; and
- 2. The petition is hereby dismissed.

Anne P. Stevason, Chairman

Susan Sullivan-Bisceglia/ Member

J. Christopher Meagher, Meraber

Mark G. Pearce, Member

Jean Grumet, Member

Dated and signed in the Office of the Industrial Board of Appeals, at New York, New York, on September 24, 2008.