

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Objections to: :
 : DOCKET NO. PES 19-001
 :
TRIBOROUGH BRIDGE AND TUNNEL :
AUTHORITY'S SECOND PETITION FOR :
MODIFICATION OF ABATEMENT DATE, : RESOLUTION OF DECISION
 :
 :
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APPEARANCES

Pico P. Ben-Amotz, General Counsel, NYS Department of Labor, Albany (Harry Dunsker of counsel), for NYS Department of Labor.

WHEREAS:

On May 16, 2018, the New York State Department of Labor's Public Employee Safety and Health Bureau (hereinafter "DOL") issued a notice of violation and order to comply to the Triborough Bridge and Tunnel Authority (hereinafter "TBTA") finding three violations and requiring their abatement by certain dates. One of those violations was purportedly abated on or before the abatement date. On July 18, 2018, TBTA filed a petition with DOL for a modification of the abatement date for the remaining two violations. The petition was not opposed, and DOL granted it, setting a new abatement date of January 25, 2019. On January 24, 2019, TBTA filed, with DOL, a second petition for modification of the abatement date until June 25, 2019. By email dated February 1, 2019, Wayne Joseph, President of the Bridge and Tunnel Officers Benevolent Association objected to the second petition for modification of the abatement date. DOL granted the second petition for modification of the abatement date on February 21, 2019, and DOL, via counsel, forwarded the employee representative's objection to the Industrial Board of Appeals (hereinafter "Board") pursuant to Department of Labor Regulations (12 NYCRR) § 804.7 (a) by letter dated March 11, 2019.

Department of Labor Regulations (12 NYCRR) § 804.7 (c) provides that:

"Within 10 working days after the receipt of notice of the docketing by the Industrial Board of Appeals of any petition for modification of the abatement date, each party shall file a response setting forth whether it is aggrieved by such determination and the reasons for opposing the granting of the modification date requested in the petition. If no party is aggrieved, the board on its own motion shall dismiss the proceeding."

Pursuant to this section, the Board sent a letter dated March 20, 2019 to DOL's counsel, TBTA's counsel, and Wayne Joseph, President of the Bridge and Tunnel Officers' Benevolent Association, the employee representative that objected to the second petition for modification of the January 25, 2019 abatement date. Copies of the letter were also sent to the Superior Officers'

Benevolent Association, Local 1931 – TBTA Maintainers, and Local 1655 – MTA Clerical-Administrative Employees. This letter directed each recipient to file a response on or before April 1, 2019 setting forth whether it is aggrieved by the respondent’s determination to extend the abatement date and the reasons for objecting to the extension. DOL’s counsel was the only party to reply to the Board’s letter. Accordingly, we dismiss the proceeding and affirm the DOL’s determination to extend the abatement date.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

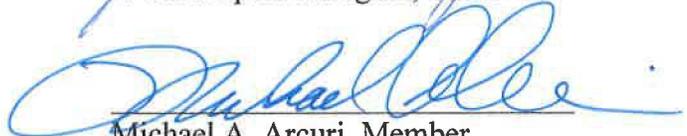
The proceeding be, and the same hereby is, dismissed in accordance with the Board’s Rules.



Molly Doherty, Chairperson



J. Christopher Meagher, Member



Michael A. Arcuri, Member



Gloribelle J. Perez, Member

Dated and signed by the Members
of the Industrial Board of Appeals
in New York, New York,
on May 29, 2019.