

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 MOHAMED OUMMIH, :
 :
 Petitioner, :
 :
 To Review Under Section 101 of the Labor Law: :
 An Order to Comply with Article 6 of the Labor :
 Law, dated January 12, 2009, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
 -----X

DOCKET NO. PR 09-034

RESOLUTION OF DECISION

APPEARANCES

Mohamed Oummih, *pro se* Petitioner.

Maria L. Colavito, Counsel to the New York State Department of Labor, Benjamin A. Shaw,
of Counsel, for Respondent.

WHEREAS:

On May 26, 2010, we issued a resolution of decision dismissing this matter due to the petitioner's failure to appear at the hearing scheduled in this matter for May 5, 2010. The decision was served on the parties on June 1, 2010. By letter dated June 28, 2010, the petitioner requested reconsideration of the Board's decision of May 26, 2010 on the ground that the petitioner never received notice of the hearing. We agree and revoke our prior decision dismissing the petition.

On February 19, 2009, the Board received the petition in this matter in an envelope with a return address on Ditmars Blvd. The order attached to the petition was to a business address located on 40th Ave and the petition itself referred to the "location of the premises" as 40th Ave. Therefore, the Board sent its original correspondence acknowledging receipt of the petition to 40th Ave. Subsequently, the Board's correspondence was returned by the post office as "attempted not known." Nevertheless, future correspondence to the petitioner, including the notice of hearing, was mailed to 40th Ave, and although not all correspondence

was returned to the Board with some apparently reaching the petitioner, we cannot be certain that he ever received the notice of hearing.

Accordingly, our resolution of decision issued May 26, 2010 is revoked, and a new hearing in this matter will be scheduled on a date to be determined.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The petitioner's motion for reconsideration is granted; and
2. The Board's Resolution of Decision in this matter issued May 26, 2010 is revoked; and
3. The petitioners' petition filed on February 19, 2009 is reinstated; and
4. The Board will schedule a new hearing in this matter.



Anne P. Stevason, Chairman



J. Christopher Meagher, Member



Jean Grumet, Member

LaMarr J. Jackson, Member

Absent

Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York, on
July 28, 2010.

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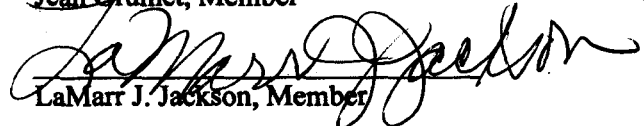
Anne P. Stevason, Chairman



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