

**JEAN SUWAL AND MARRS ELECTRIC SALES CO., INC.**

**Docket No. PR 09-311**

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :  
 :  
 JEAN SUWAL AND MARRS ELECTRIC SALES :  
 CO., INC., :  
 :  
 Petitioners, :  
 :  
 To Review Under Section 101 of the Labor Law: An :  
 Order to Comply with Articles 6 and 19 of the Labor :  
 Law, dated August 24, 2009, :  
 :  
 - against - :  
 :  
 THE COMMISSIONER OF LABOR, :  
 :  
 Respondent. :  
 -----X

DOCKET NO. PR 09-311  
RESOLUTION OF DECISION

APPEARANCES

Jean Suwal, *pro se*, for Petitioners.  
  
Maria L. Colavito, Counsel, NYS Department of Labor, Benjamin A. Shaw of Counsel, for Respondent, Commissioner of Labor.

WHEREAS:

This proceeding was commenced when Petitioners filed a petition with the Industrial Board of Appeals (Board) on October 29, 2009, seeking review of orders that Respondent Commissioner of Labor (Commissioner) issued on August 24, 2009.

The petition and a subsequent amended petition were served on Respondent on January 6, 2010. The Commissioner moved on February 10, 2010 to dismiss the petition as untimely. Petitioners did not respond to the motion.

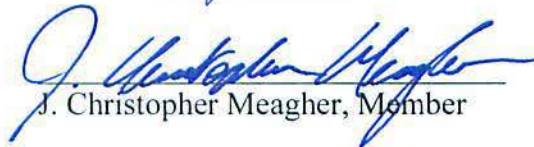

Labor Law § 101 (1) states that:

“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 August 24, 2009, and therefore, a petition for review would be timely if filed with the Board no later than October 23, 2009 (Board Rules 65.5 [d] [12 NYCRR 65.5 (d)]). The petition in this proceeding was postmarked October 29, 2009. The petition was therefore untimely, and the Petitioners, having failed to respond to the Commissioner's motion to dismiss, have offered no sufficient grounds for excusing such untimely filing. Accordingly, the petition must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The Commissioner of Labor's motion to dismiss the petition for review is granted in its entirety, and the petition for review be, and the same hereby is, dismissed.

  
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Anne P. Stevason, Chairman  
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J. Christopher Meagher, Member  
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Jean Grumet, Member  
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LaMarr J. Jackson, Member

Dated and signed in the Office  
of the Industrial Board of Appeals  
at New York, New York, on  
April 21, 2010.