

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 ANTON DRAGONIDES AND MAINE SERVICE :
 CORP., :
 :
 Petitioners, :
 :
 To Review Under Section 101 of the Labor Law: An :
 Order to Comply with Articles 6 of the Labor Law :
 and an Order Under Article 19 of the Labor Law, :
 both dated September 27, 2010, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
 -----X

DOCKET NO. PR 10-397

RESOLUTION OF DECISION

APPEARANCES

Anton Dragonides, *pro se*, for Petitioners.

Maria L. Colavito, Counsel, NYS Department of Labor, Benjamin A. Shaw of Counsel, for Respondent.

WHEREAS:

This proceeding was commenced when the petitioners filed a petition with the Industrial Board of Appeals (Board) on December 13, 2010 in an envelope post-marked December 10. The petition was served on the respondent Commissioner of Labor (Commissioner) on January 6, 2011. The Commissioner moved on February 9, 2011 to dismiss the petition as untimely because it was filed more than 60 days after the orders were issued. The petitioners did not respond to the motion although we advised them in a letter dated March 21, 2011 that their response to the motion was to be filed on or before April 18, 2011.

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 September 27, 2010, and therefore, any petition for review filed with the Board after November 26, 2010 would be untimely (Board Rules of Procedure and Practice 65.5 and 65.3 [a]; [12 NYCRR 65.5 and 65.3 (a)]). As the petition in this proceeding was not received by the Board until December 13, 2010, it was untimely. Having failed to respond to the Commissioner’s motion to dismiss, the petitioner has offered no 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.



Anne P. Stevason, Chairperson



J. Christopher Meagher, Member



Jean Grumet, Member

LaMarr J. Jackson, Member

Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
July 26, 2011.

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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.

Anne P. Stevason, Chairperson

J. Christopher Meagher, Member

Jean Grunet, Member



LaMarr J. Jackson, Member

Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Rochester, New York, on
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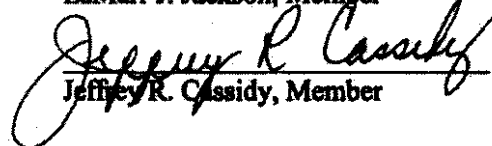
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Anne P. Stevason, Chairperson

J. Christopher Meagher, Member

Jean Grumet, Member

LaMarr J. Jackson, Member



Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York, on
July 26, 2011.