

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 BICKRAM SINGH, :
 :
 Petitioner, :
 :
 To Review Under Section 101 of the Labor Law: An :
 Order to Comply with Article 6 of the Labor Law and :
 an Order Under Article 19 of the Labor Law, both :
 dated December 3, 2010, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
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DOCKET NO. PR 11-033
RESOLUTION OF DECISION

APPEARANCES

Bickram Singh, petitioner pro se.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Jeffrey G. Shapiro of counsel), for respondent.

WHEREAS:

This proceeding was commenced when the petitioners filed a petition with the Industrial Board of Appeals (Board) on February 11, 2011 which was subsequently amended. The petition and amended petition were served on the respondent Commissioner of Labor (Commissioner) on April 29, 2011. The Commissioner moved on May 12, 2011 to dismiss the petition as untimely because it was filed more than 60 days after the orders were issued.

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 December 3, 2010, and therefore, any petition for review filed with the Board after February 1, 2011 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 February 11, 2011 (in an envelope post-marked February 9) it was untimely. The petitioner in his response to the motion has provided no adequate grounds to excuse the late filing. Indeed, we note that the petitioner appears to have discussed the orders with a DOL investigator on December 8, 2010, well within the statute of limitations period, and indicated his intention at that time to appeal the orders to the Board. 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



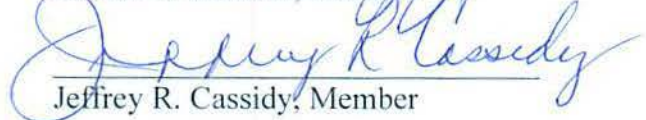
J. Christopher Meagher, Member



Jean Grumet, Member



LaMarr J. Jackson, Member



Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at Albany, New York, on
October 11, 2011.