

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :  
 :  
 PJETER VULAJ AND VETETI CORP., :  
 :  
 Petitioners, :  
 :  
 To Review Under Section 101 of the Labor Law: An :  
 Order to Comply with Article 6 of the Labor Law and :  
 an Order to Comply with Article 19 of the Labor Law :  
 and an Order Under Article 19 of the Labor Law, :  
 each dated December 3, 2010, :  
 :  
 - against - :  
 :  
 THE COMMISSIONER OF LABOR, :  
 :  
 Respondent. :  
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DOCKET NO. PR 11-034

INTERIM  
RESOLUTION OF DECISION

**APPEARANCES**

Pjeter Vulaj, petitioner pro se, and for Veteti Corp.

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 8, 2011. The petition was served on the respondent Commissioner of Labor (Commissioner) on February 28, 2011. The Commissioner moved on March 14, 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.”

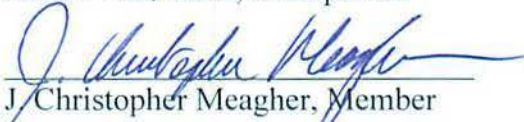
The orders sought to be reviewed were issued on December 3, 2010, and therefore, any petition for review filed with the Board after February 1, 2011 would be untimely (Board Rules of Procedure and Practice 65.5 and 65.3 [a]; [12 NYCRR 65.5 and 65.3 (a)]). There is no dispute that the petition was received by the Board after February 1, 2011; however, the affidavit of service attached to the Commissioner's reply affirmation indicates that the orders were served on petitioner Pjeter Vulaj at his home address. We have previously ruled that it is not proper service under Labor Law § 33 for an order to be served by mail on an individual at his home address (*see Matter of Angelo A. Gambino et al.*, Docket No. PR 10-150 [interim decision, November 18, 2010]). Accordingly, the motion to dismiss is denied with respect to petitioner Vulaj and his petition is deemed timely filed.

Since the Commissioner has not provided an affidavit of service for petitioner Veteti Corp., we grant her leave to submit an affirmation as to whether Veteti Corp. was properly served pursuant to Labor Law § 33.

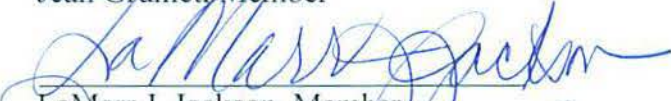
**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:**

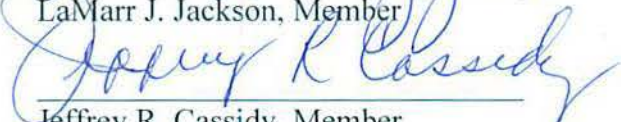
1. Respondent Commissioner of Labor's motion to dismiss the petition of Pjeter Vulaj be, and hereby is, denied; and
2. Respondent Commissioner of Labor is granted leave until November 15, 2011 to file an affirmation as to whether Veteti Corp was properly served under Labor Law § 33; and;
3. Respondent Commissioner of Labor's motion to dismiss the petition of Veteti Corp. is not decided by this interim resolution of decision; and
4. Respondent Commissioner of Labor is not required to answer the petition of Pjeter Vulaj pending decision on the motion to dismiss the petition of Veteti Corp.

  
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.