

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

-----X
In the Matter of the Petition of:

PERRY DAVIS (D/B/A BUCKEYES CHICKEN),

Petitioner,

DOCKET NO. PR 11-268

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,
all dated June 17, 2011,

INTERIM
RESOLUTION OF DECISION

- against -

THE COMMISSIONER OF LABOR,

Respondent.
-----X

APPEARANCES

William C. Moran & Associates, P.C. (William J. Hardy of counsel), for petitioner.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Larissa C. Bates of counsel),
for the respondent.

WHEREAS:

The above proceeding was commenced on August 17, 2011, when Petitioner filed a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (12 NYCRR Part 66).


On September 19, 2011, the Board served the petition on Respondent Commissioner of Labor (Respondent), who moved on October 17, 2011, for an order granting the Respondent permission to withdraw the orders at issue in this matter and issue amended orders to comply. The grounds for the motion are that the orders are inaccurate in that they name Buckeye's Chicken as a d/b/a instead of as a corporation. Respondent requests that the it be allowed to amend the order to name Buckeye's Chicken, Inc.

The Petitioner does not oppose the motion.

Accordingly, the Board approves the withdrawal of the June 17, 2011 orders and their amendment and reissuance as requested by the Respondent.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:


1. Effective the date of this Interim Resolution of Decision, the Board approves Respondent's withdrawal of the Order to Comply with Article 6 of the Labor Law, the Order to Comply with Article 19, and the Order under Article 19 of the Labor Law, both dated June 17, 2011;
2. The accrual of interest in the Order to Comply with Article 6 of the Labor Law is suspended from June 17, 2011, until the date that Respondent issues and serves an amended order on petitioner and anyone else named in the order.



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
May 30, 2012.

Accordingly, the Board approves the withdrawal of the June 17, 2011 orders and their amendment and reissuance as requested by the Respondent.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Effective the date of this Interim Resolution of Decision, the Board approves Respondent's withdrawal of the Order to Comply with Article 6 of the Labor Law, the Order to Comply with Article 19, and the Order under Article 19 of the Labor Law, both dated June 17, 2011;
2. The accrual of interest in the Order to Comply with Article 6 of the Labor Law is suspended from June 17, 2011, until the date that Respondent issues and serves an amended order on petitioner and anyone else named in the order.

Anne P. Stevason, Chairperson

J. Christopher Meagher, Member

Jean Grumet, Member


LaMarr J. Jackson, Member

Jeffrey R. Cassidy, Member

Dated and signed by a Member
of the Industrial Board of Appeals
at Rochester, New York, on
June 4, 2012.