

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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 In the Matter of the Petition of: :
 :
 SUZUKI 112 USA LLC (T/A 112 MITSUBISHI), :
 :
 Petitioner, :
 :
 To Review Under Section 101 of the Labor Law: :
 Two Orders to Comply With Article 6 of the Labor :
 Law and an Order Under Article 19 of the Labor :
 Law, each dated August 19, 2011, :
 :
 - against - :
 :
 THE COMMISSIONER OF LABOR, :
 :
 Respondent. :
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DOCKET NO. PR 11-380

RESOLUTION OF DECISION

APPEARANCES

Joseph Lanza, for petitioner.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Benjamin T. Garry of counsel), for the respondent.

WHEREAS:

This proceeding was commenced when the petitioner filed a petition with the Industrial Board of Appeals (Board) on December 7, 2011. The petition was served on the respondent Commissioner of Labor (Commissioner) on January 17, 2012. The Commissioner moved on February 16, 2012 to dismiss the petition as untimely because it was filed more than 60 days after the order was issued.

Labor Law § 101 (1) states that:

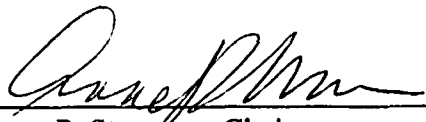
“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner. . . . Such petition shall be filed with the board no later than sixty days after the issuance of such . . . order.”

The orders sought to be reviewed were issued on August 19, 2011, and therefore, any petition for review filed with the Board after October 18, 2011 would be untimely (Board Rules of Procedure and Practice 66.3 [a], 65.5 and 65.3 [a]; [12 NYCRR 66.3 [a], 65.5 and 65.3 (a)]). As the petition in this proceeding was not received by the Board until December 7, 2011, it was untimely.

The petitioner did not file any opposition to the motion.

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. Stevenson, Chairperson



J. Christopher Meagher, Member



Jean Grumet, Member

LaMarr J. Jackson, Member

ABSENT

Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
September 10, 2012.

The orders sought to be reviewed were issued on August 19, 2011, and therefore, any petition for review filed with the Board after October 18, 2011 would be untimely (Board Rules of Procedure and Practice 66.3 [a], 65.5 and 65.3 [a]; [12 NYCRR 66.3 [a], 65.5 and 65.3 (a)]). As the petition in this proceeding was not received by the Board until December 7, 2011, it was untimely.

The petitioner did not file any opposition to the motion.


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 by a Member
of the Industrial Board of Appeals
at Rochester, New York, on
September 10, 2012.