

STATE OF NEW YORK  
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of: :

VIKTOR K. VORFI AND SIDE- BY- SIDE PIZZA :  
& BUREK INC., :

Petitioners, :

DOCKET NO. PR 12-076

To Review Under Section 101 of the Labor Law: :  
Orders to Comply with Articles 6 and 19 of the Labor :  
Law, and an Order under Article 19, all dated :  
October 26, 2011, :

RESOLUTION OF DECISION

- against - :

THE COMMISSIONER OF LABOR, :

Respondent. :  
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**APPEARANCES**

Viktor Vorfi, petitioner *pro se* and for Side-By-Side Pizza & Burek Inc.

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

**WHEREAS:**

This proceeding was commenced when the petitioner filed a petition with the Industrial Board of Appeals (Board) on March 12, 2012. The petition and an amended petition, received on June 6, 2012, were served on the respondent Commissioner of Labor (Commissioner) on June 11, 2012. The Commissioner moved on June 22, 2012, to dismiss the petition as untimely because it was filed more than sixty 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 order sought to be reviewed was issued on October 26, 2011, and therefore, any petition for review filed with the Board after December 25, 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 March 12, 2012, in an envelope post-marked March 8, 2012, it was untimely.

The petitioner did not file an 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.

  
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Anne P. Stevason, Chairperson

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J. Christopher Meagher, Member

  
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Jean Grunet, Member

  
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LaMarr J. Jackson, Member

  
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Jeffrey R. Cassidy, Member

Dated and signed in the Office  
of the Industrial Board of Appeals  
at New York, New York, on  
November 20, 2013.