

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

RAM R. KISSOON (T/A RUDY TRUCKING),

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 June 28, 2012,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 12-143

RESOLUTION OF DECISION

APPEARANCES

Ram R. Kissoon, petitioner pro se.

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

WHEREAS:

This proceeding was commenced when the petitioner filed a petition with the Industrial Board of Appeals (Board) on August 30, 2012, in an envelope post-marked August 28, 2012. The petition was served on the respondent Commissioner of Labor (Commissioner) on September 4, 2012. The Commissioner moved on September 13, 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 June 28, 2012, and therefore, any petition for review filed with the Board after August 27, 2012 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 August 30, 2012, in an envelope post-marked August 28, it was untimely.

The petitioner's opposition to the motion provides no legally sufficient grounds for the Board to find that the petition was timely filed or to excuse the late filing.

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.

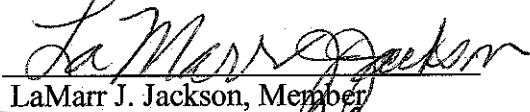
Anne P. Stevason, Chairperson



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 New York, New York, on
December 14, 2012.