

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:

BESTWAY BASEMENT, LLC,

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 January 14, 2013,

- against -

THE COMMISSIONER OF LABOR,

Respondent.
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DOCKET NO. PR 13-009

RESOLUTION OF DECISION

APPEARANCES

Mona Lupow, petitioner *pro se*.

Pico Ben-Amotz, Acting Counsel, NYS Department of Labor (Jeffrey G. Shapiro of counsel), for respondent.


WHEREAS:

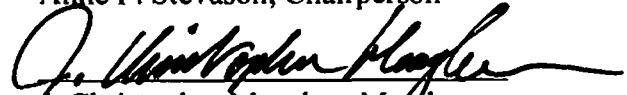
The above proceeding was commenced on February 19, 2013, when the petitioner filed a petition for review pursuant to Labor Law § 101 and Part 66 of the Industrial Board of Appeals' Rules of Procedure and Practice (12 NYCRR Part 66) of two orders issued by the respondent Commissioner of Labor against Dennis O'Connor and Bestway Basement LLC on January 14, 2013.

The petition alleges that Bestway Basement LLC did not employ Dennis O'Connor or any of the claimants listed in the orders, that a separate, unrelated business using a similar name employed the claimants, and that Dennis O'Connor was a subcontractor of that other business. By letter dated April 9, 2013, the respondent stated that he agrees with, or can offer no evidence to dispute, the allegations in the petition. Accordingly, the Board grants the petition with respect to Bestway Basement, LLC, and noting that Dennis O'Connor was never properly served with a copy of the orders, revokes the orders with respect to Dennis O'Connor without prejudice.

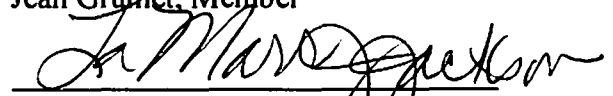
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

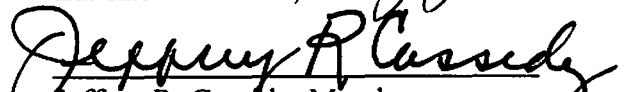
1. The orders against Bestway Basement, LLC are revoked; and
2. The orders against Dennis O'Connor are revoked without prejudice; and
3. The petition of Bestway Basement, LLC be, and the same hereby is, granted.


Anne P. Stevason, Chairperson


J. Christopher Meagher, Member


Jean Grumet, Member

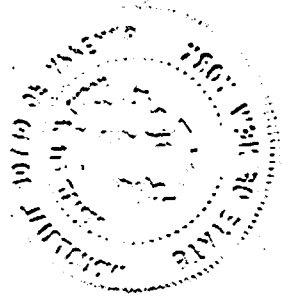

LaMarr J. Jackson, Member


Jeffrey R. Cassidy, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
June 12, 2013.

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