

STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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In the Matter of the Petition of:	:
	:
GENNUSE G. AGBLISIT AND ORIENT PEARL	:
CONSTRUCTION LLC,	:
	:
Petitioners,	:
	:
	DOCKET NO. PR 13-127
To Review Under Section 101 of the Labor Law:	:
An Order to Comply With Article 6 of the Labor Law :	<u>RESOLUTION OF DECISION</u>
and an Order Under Article 19 of the Labor Law, :	
each dated April 10, 2013,	:
	:
- against -	:
	:
THE COMMISSIONER OF LABOR,	:
	:
Respondent.	:
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APPEARANCES

Gennuse G. Agblisit, petitioner *pro se*.

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 August 21, 2013, which was amended on September 27, 2013. The petition and amended petition were served on the respondent Commissioner of Labor (Commissioner) on October 2, 2013. The Commissioner moved on October 17, 2013 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:

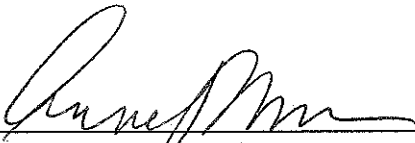
“Except where otherwise prescribed by law, any person in interest or his duly authorized agent may petition the board for a review of the validity or reasonableness of any . . . order made by the commissioner. . . . Such petition shall be filed with the board no later than sixty days after the issuance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

The orders sought to be reviewed were issued on April 10, 2013, and therefore, any petition for review filed with the Board after June 10, 2013 would be untimely (Board Rules of Procedure and Practice 65.3 [a] and 65.5 [12 NYCRR 65.3 [a] and 65.5]). As the petition in this proceeding was not received by the Board until August 21, 2013, in an envelope post-marked August 19, 2013, it was untimely.

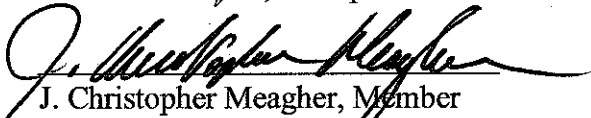
The petitioner did not file an opposition to the motion.

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.



Anne P. Stevason, Chairperson



J. Christopher Meagher, Member



Jean Grunet, Member



LaMarr J. Jackson, Member

Dated and signed in the Office
of the Industrial Board of Appeals
at New York, New York, on
January 16, 2014.

Jeffrey R. Cassidy, Member