In the Matter of the Petition of:
JOHN PATRICK BELL AND PATRICK CONCRETE CONSTRUCTORS, INC.

Petitioners,

To Review Under Section 101 of the Labor Law:
An Order to Comply with Articles 6 and 19 of the Labor Law, dated April 22, 2021,
- against -
THE COMMISSIONER OF LABOR,

Respondent.

DOCKET NO. PR 21-084
RESOLUTION OF DECISION

APPEARANCES

John P. Bell, petitioner pro se and for Patrick Concrete Constructors.

Jill Archambault, Acting General Counsel, NYS Department of Labor, Albany (Benjamin T. Garry of counsel), for respondent.

WHEREAS:

This proceeding was commenced when petitioner filed a petition with the Industrial Board of Appeals (hereinafter “Board”) on June 24, 2021, and on July 1, 2021, the Board served the petition on respondent Commissioner of Labor. Respondent moved, on July 30, 2021, to dismiss the petition because it was filed more than 60 days after the order being appealed was issued. Petitioners did not respond to the motion.

Labor Law § 101 (1) provides 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 to be reviewed was issued on April 22, 2021, and therefore, any petition for review filed with the Board after June 21, 2021, is untimely (Labor Law § 101 (1); Board Rules of Procedure and Practice (hereinafter “Board Rules”) [12 NYCRR §§ 65.5 and 65.3 [a]]. As the
petition in this proceeding was filed on June 24, 2021, and petitioners have offered no reason to excuse the late filing, we find that the petition was untimely and must be dismissed.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

The Commissioner of Labor’s motion to dismiss the petition for review is granted, and the petition for review be, and the same hereby is, dismissed.

Dated and signed by the Members of the Industrial Board of Appeals on September 29, 2021.

Michael A. Arcuri, Member

Patricia Kakalec, Member

Molly Doherty, Chairperson

Najah Farley, Member

Sandra Abeles, Member