

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

JHONNY ARTURO AREVALO NAVARRO, *Applicant*

vs.

**SANTA ANA CORPORATION FITNESS, INC. dba GOLDS GYM;
THE HARTFORD, *Defendants***

**Adjudication Number: ADJ10199818
Pomona District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

We have considered the allegations of the Petition for Reconsideration and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, the petition is untimely and must be dismissed.¹

There are 20 days allowed within which to file a petition for reconsideration from a "final" decision. (Lab. Code, §§ 5900(a), 5903.) This time is extended by 5 calendar days if service is made to an address within California or 10 calendar days if service is made to an address outside of California but within the United States. (Cal. Code Regs., tit. 8, § 10605(a)(1).) While applicant received service of the decision within California, defendant Hartford was served at an address outside of California.

This time limit is jurisdictional and, therefore, the Appeals Board has no authority to consider or act upon an untimely petition for reconsideration. (*Maranian v. Workers' Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1076 [65 Cal.Comp.Cases 650]; *Rymer v. Hagler* (1989) 211 Cal.App.3d 1171, 1182; *Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984 [46 Cal.Comp.Cases 1008]; *U.S. Pipe & Foundry Co. v. Industrial Acc. Com. (Hinojoza)* (1962) 201 Cal.App.2d 545, 549 [27 Cal.Comp.Cases 73].)

¹ Commissioners Lowe and Sweeney, who were on the panel that issued the prior decision on this matter no longer serve on the Appeals Board. Other panelists have been substituted in their place.

In this case, the WCJ issued the decision on January 10, 2023. Based on the authority cited above, if the time to file is extended by 10 days based on defendant's out-of-state address, applicant had until Thursday, February 9, 2023 to seek reconsideration in a timely manner. Although the proof of service for the petition is dated February 4, 2023, to be timely, a petition must be filed (received) at the WCAB within the time limits. The record here shows that applicant's petition is date stamped received on April 11, 2023, making it untimely and subject to dismissal.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ NATALIE PALUGYAI, COMMISSIONER

I CONCUR,

/s/ KATHERINE A. ZALEWSKI, CHAIR

/s/ JOSEPH V. CAPURRO, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

June 12, 2023

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**JHONNY AREVALO (PRO PER)
MANNING, KASS, ELLROD, RAMIREZ, TRESTER LLP**

LN/pm

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*