

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

**SANDRA GENOVESE, *Applicant***

**vs.**

**DENNY'S, INC.; THE HARTFORD INSURANCE COMPANY  
OF THE MIDWEST, administered by GALLAGHER  
BASSETT SERVICES, INC., *Defendants***

**Adjudication Numbers: ADJ9701120 (MF); ADJ10123214; ADJ10696420  
Van Nuys District Office**

**OPINION AND ORDER  
DISMISSING PETITION FOR  
RECONSIDERATION**

We issued an Opinion and Orders Dismissing Petition for Reconsideration and Denying Petition for Disqualification in these matters on September 2, 2021.<sup>1</sup> Thereafter, applicant filed a Petition for Reconsideration on April 19, 2022. Based on our review of the record and for the reasons stated below, we dismiss applicant's petition as untimely, skeletal, and successive.

There are 25 days allowed within which to file a petition for reconsideration from a "final" decision that has been served by mail upon an address in California. (Lab. Code, §§ 5900(a), 5903; Cal. Code Regs., tit. 8, § 10605(a)(1).) This time limit is extended to the next business day if the last day for filing falls on a weekend or holiday. (Cal. Code Regs., tit. 8, § 10600.) To be timely, however, a petition for reconsideration must be filed with (i.e., received by) the WCAB within the time allowed; proof that the petition was mailed (posted) within that period is insufficient. (Cal. Code Regs., tit. 8, §§10940(a); 10615(b).)

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,

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<sup>1</sup> Commissioner Lowe and Deputy Commissioner Garcia, who were on the panel that issued a prior decision in this matter is unavailable to participate further in this decision. Other panel members have been assigned in their place

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].)

In this case, we issued our decision on September 2, 2021. Based on the authority cited above, applicant had until Monday, September 27, 2021 to seek reconsideration in a timely manner. Therefore, the petition filed on April 19, 2022 is untimely and subject to dismissal.

Moreover, the Labor Code requires that:

The petition for reconsideration shall set forth specifically and in full detail the grounds upon which the petitioner considers the final order, decision or award made and filed by the appeals board or a workers' compensation judge to be unjust or unlawful, and every issue to be considered by the appeals board. The petition shall be verified upon oath in the manner required for verified pleadings in courts of record and shall contain a general statement of any evidence or other matters upon which the applicant relies in support thereof.

(Lab. Code, § 5902, emphasis added.)

The Appeals Board Rules provide in relevant part: (1) that “[e]very petition for reconsideration ... shall fairly state all the material evidence relative to the point or points at issue [and] [e]ach contention contained in a petition for reconsideration ... shall be separately stated and clearly set forth” (Cal. Code Regs., tit. 8, § 10945) and (2) that “a petition for reconsideration ... may be denied or dismissed if it is unsupported by specific references to the record and to the principles of law involved.” (Cal. Code Regs., tit. 8, § 10972.)

In accordance with section 5902 and WCAB Rules 10945 and 10972, the Appeals Board may dismiss or deny a petition for reconsideration if it is skeletal (e.g., *Cal. Indemnity Ins. Co. v. Workers’ Comp. Appeals Bd. (Tardiff)* (2004) 69 Cal.Comp.Cases 104 (writ den.); *Hall v. Workers’ Comp. Appeals Bd.* (1984) 49 Cal.Comp.Cases 253 (writ den.); *Green v. Workers’ Comp. Appeals Bd.* (1980) 45 Cal.Comp.Cases 564 (writ den.)); if it fails to fairly state all of the material evidence, including that not favorable to it (e.g., *Addecco Employment Services v. Workers’ Comp. Appeals Bd. (Rios)* (2005) 70 Cal.Comp.Cases 1331 (writ den.); *City of Torrance v. Workers’ Comp. Appeals Bd. (Moore)* (2002) 67 Cal.Comp.Cases 948 (writ den.); or if it fails to specifically discuss the particular portion(s) of the record that support the petitioner’s contentions (e.g., *Moore, supra*, 67 Cal.Comp.Cases at p. 948; *Shelton v. Workers’ Comp. Appeals Bd.* (1995) 60 Cal.Comp.Cases 70 (writ den.)). The petition filed herein fails to state grounds upon which reconsideration is sought or to cite with specificity to the record. Therefore, it is subject to dismissal.

Finally, it is well settled that where a party fails to prevail on a petition for reconsideration, the Appeals Board will not entertain a successive petition by that party unless the party is newly aggrieved. (*Goodrich v. Industrial Acc. Com.* (1943) 22 Cal.2d 604, 611 [8 Cal.Comp.Cases 177]; *Ramsey v. Workmen's Comp. Appeals Bd.* (1971) 18 Cal.App.3d 155, 159 [36 Cal.Comp.Cases 382]; *Crowe Glass Co. v. Industrial Acc. Com. (Graham)* (1927) 84 Cal.App. 287, 293-295 [14 IAC 221].). As stated in our en banc opinion in *Navarro v. A & A Framing* (2002) 67 Cal.Comp.Cases 296, 299:

“The general rule is that where a party has filed a petition for reconsideration with the Board, but the party does not prevail on that petition for reconsideration, the petitioning party cannot attack the [Appeal's] Board's action by filing a second petition for reconsideration; rather, the petitioning party must either be bound by the [Appeals] Board's action or challenge it by filing a timely petition for writ of review.”

If applicant wished to challenge our September 2, 2021 decision, it would have been appropriate for applicant to seek a writ of review from the Court of Appeals. It is improper for applicant to file multiple petitions for reconsideration that attempt to relitigated issues that have been finally determined against her.

For the foregoing reasons,

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

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ MARGUERITE SWEENEY, COMMISSIONER**

**I CONCUR,**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

**/s/ KATHERINE WILLIAMS DODD, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**June 20, 2022**

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

**SANDRA GENOVESE, IN PRO PER  
SLADE NEIGHBORS**

**PAG/abs**

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