

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

**REYNALDA ORTIZ, *Applicant***

**vs.**

**GOODWILL INDUSTRIES OF SOUTHERN CALIFORNIA, permissibly self-insured,  
administered by ADMINSURE, *Defendants***

**Adjudication Numbers: ADJ8931480, ADJ8932563  
Los Angeles District Office**

**OPINION AND ORDER  
DISMISSING PETITION FOR  
RECONSIDERATION**

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

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, former § 10507(a)(1), now § 10605(a)(1) (eff. Jan. 1, 2020).) 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, former § 10508, now § 10600 (eff. Jan. 1, 2020).) 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, former § 10845(a), now § 10940(a); former § 10392(a), now § 10615(b) (eff. Jan. 1, 2020).)

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].)

The Petition in this matter was filed on April 7, 2021. This was more than 25 days after the service of the WCJ's August 11, 2020 decision and beyond whatever extension of time, if any, applicant might have been entitled to under WCAB Rule 10600. Therefore, the Petition for Reconsideration filed on April 7, 2021 is untimely and must be dismissed. As stated above, because the time limit is jurisdictional and because applicant's Petition for Reconsideration was untimely, we do not have the jurisdiction to address the issues raised on reconsideration.

The dismissal of applicant's claims "without prejudice" had the effect of terminating the proceedings before the Appeals Board. However, applicant filed amended Applications for Adjudication for her two claims subsequent to issuance of the August 11, 2020 Joint Order Dismissing Cases. Applicant's Petition challenging the Joint Order Dismissing Cases may consequently also be moot since she appears to have reactivated her claims. (See *Nolan v. Workers' Comp. Appeals Bd.* (1977) 70 Cal.App.3d 122, 128-129 [42 Cal.Comp.Cases 401] [an order of dismissal without prejudice holds open the employee's right to refile an application provided it is not barred by a statute of limitations].)

Therefore, we will dismiss applicant's Petition.

For the foregoing reasons,

**IT IS ORDERED** that applicant's Petition for Reconsideration of the Joint Order Dismissing Cases issued by the WCJ on August 11, 2020 is **DISMISSED**.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSÉ H. RAZO, COMMISSIONER**

I CONCUR,

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

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



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

**June 4, 2021**

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

**DONALD GABRIEL  
GARRETT LAW GROUP  
REYNALDA ORTIZ**

*AI/pc*

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