

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

DOUGLAS MARTINEZ, *Applicant*

vs.

**GT'S LIVING FOODS; PROPERTY AND CASUALTY INSURANCE COMPANY,
administered by CORVEL CORPORATION, *Defendants***

**Adjudication Number: ADJ12181439; ADJ13137710
Van Nuys 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 will be dismissed.

There are 30 days allowed within which to file a petition for reconsideration from a "final" decision that has been served by mail upon an address outside 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, 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, the WCJ issued the Findings and Award on July 25, 2023. Based on the authority cited above, applicant had until Thursday, August 24, 2023 to seek reconsideration in a

timely manner. Therefore, the Petition for Reconsideration filed on October 25, 2023 is untimely and will be dismissed.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

DECEMBER 22, 2023

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

**DOUGLAS MARTINEZ
MERLUZA LAW
LLARENA MURDOCK LOPEZ & MOTSCHENBACHER**

PAG/es

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