

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

**CIERRA STIVERS, *Applicant***

**vs.**

**CLEAN PATH BEHAVIORAL HEALTH;  
INSURANCE COMPANY OF THE WEST, *Defendants***

**Adjudication Number: ADJ15637551  
Los Angeles District Office**

**OPINION AND ORDER  
GRANTING PETITION FOR  
RECONSIDERATION  
AND DECISION AFTER  
RECONSIDERATION**

It has come to the attention of the Appeals Board that, while this matter has been pending on reconsideration, the parties have reached a proposed settlement.

Labor Code section 5909 provides that a petition is denied by operation of law if the Appeals Board does not grant the petition within 60 days after it is filed. (Lab. Code, § 5909.) However, we believe that “it is a fundamental principle of due process that a party may not be deprived of a substantial right without notice....” (*Shiple v. Workers’ Comp. Appeals Bd.* (1992) 7 Cal.App.4th 1104, 1108 [57 Cal.Comp.Cases 493].) In *Shiple*, the Appeals Board denied the applicant’s petition for reconsideration because it had not acted on the petition within the statutory time limits of Labor Code section 5909. This occurred because the Appeals Board had misplaced the file, through no fault of the parties. The Court of Appeal reversed the Appeals Board’s decision holding that the time to act on applicant’s petition was tolled during the period that the file was misplaced. (*Shiple, supra*, 7 Cal.App.4th at p. 1108.) Like the Court in *Shiple*, “we are not convinced that the burden of the system’s inadequacies should fall on [a party].” (*Shiple, supra*, 7 Cal.App.4th at p. 1108.)

In this case, the WCJ issued the Findings and Order on February 7, 2023, and applicant filed a timely petition on February 23, 2023. Due to procedural irregularities, the Appeals Board

failed to act on the petition within 60 days, through no fault of the parties. Therefore, considering that applicant filed a timely petition and that the Appeals Board's failure to act on that petition was in error, we find that our time to act on applicant's petition was tolled until 60 days until May 5, 2024.

Since the District Office is precluded from acting on a case while it is pending on reconsideration (Cal. Code Regs., tit. 8, § 10961), in order to permit review by the workers' compensation administrative law judge (WCJ) of the proposed settlement, we will grant reconsideration, rescind the decision from which reconsideration is sought, and return this matter to the trial level for the workers' compensation administrative law judge (WCJ) to consider the proposed settlement. If the WCJ does not approve the settlement, the WCJ may issue an order reinstating the original decision and any aggrieved person may timely seek reconsideration from the reinstated decision. This is not a final decision on the merits of any of the issues pending on reconsideration.

For the foregoing reasons,

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

**IT IS FURTHER ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the WCJ's decision of February 7, 2023 is **RESCINDED** and this matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ CRAIG SNELLINGS, COMMISSIONER**

**I CONCUR,**

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

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



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

**March 25, 2024**

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

**CIERRA STIVERS  
RK LEGAL  
LAW OFFICE OF JEFFERI HAMILTON**

**AS/mc**

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