

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

JOHN VANLANDINGHAM, *Applicant*

vs.

**AMERICAN SERVICES & PRODUCTS, INC., dba AMERICAN JANITOR SERVICES;
OAK RIVER INSURANCE COMPANY C/O BERKSHIRE HATHAWAY HOMESTATE
COMPANIES, *Defendants***

**Adjudication Number: ADJ13733670
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.

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].)

In this case, the WCJ issued the Findings of Fact on September 16, 2021. Based on the authority cited above, applicant had until Monday, October 11, 2021 to file a timely Petition for Reconsideration. Although Columbus Day was observed on Monday, October 11, 2021, the Appeals Board was open for filing on that day. Therefore, the Petition for Reconsideration filed on October 12, 2021 is untimely and must be dismissed.

If the petition had been timely, we would have denied it on the merits.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ CRAIG SNELLINGS, COMMISSIONER

I CONCUR,

/s/ MARGUERITE SWEENEY, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 7, 2021

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

**JOHN VANLANDINGHAM
SOLIMON RODGERS
SIEGEL, MORENO & STETTLER**

PAG/pc

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