

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

NIEVES ARAUJO, *Applicant*

vs.

**COMPLETE CLOTHING COMPANY; HARTFORD FIRE INSURANCE CO., as
administered by THE HARTFORD, *Defendants***

**Adjudication Number: ADJ10989634
Long Beach 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 decision on April 15, 2021. Based on the authority cited above, applicant had until Monday, May 10, 2021 to file a Petition for Reconsideration in a timely manner. It appears that applicant served her petition by mail on April 29, 2021. However, applicant used an old address for the Long Beach District Office and the petition was not received at the current address until May 13, 2021 making it untimely.¹ Because the issue of timeliness is jurisdictional, we must dismiss the petition as untimely.

¹ Pursuant to DWC Newsline 2021-23 dated February 25, 2021, the Long Beach District Office moved from 300 Oceangate Ave. #200, Long Beach, CA 90812 to 1500 Hughes Way, Suite C203, Long Beach, CA 90810.

For the foregoing reasons,

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

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



/s/ DEIDRA E. LOWE, COMMISSIONER

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

JULY 9, 2021

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

**NIEVES ARAUJO
LAW OFFICES OF LYDIA B. NEWCOMB**

PAG/bea

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