

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

CEDIA CONNER, *Applicant*

vs.

**AC TRANSIT;
ATHENS ADMINISTRATORS CONCORD, *Defendants***

**Adjudication Number: ADJ14948880
Oakland District Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
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, and for the reasons stated in the WCJ's report, which we adopt and incorporate, we will grant reconsideration, rescind the WCJ's decision, and return this matter to the WCJ for further proceedings and decision. This is not a final decision on the merits of any issues raised in the petition and any aggrieved person may timely seek reconsideration of the WCJ's new decision.

For the foregoing reasons,

IT IS ORDERED that reconsideration of the decision of August 19, 2022 is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the decision of August 19, 2022 is **RESCINDED** and that the matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ MARGUERITE SWEENEY, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 14, 2022

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

**CEDIA CONNER
GOLDEN STATE WORKERS COMPENSATION
WITKOP LAW**

AS/cs

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

**REPORT AND RECOMMENDATION
ON PETITION FOR RECONSIDERATION**

I. INTRODUCTION

By timely, verified petition filed on September 12, 2022, Applicant's attorney Golden State Workers Comp Oakland files for reconsideration of the Order of Dismissal dated August 19, 2022.

II. PROCEDURAL HISTORY

Applicant filed an Application for Adjudication of Claim dated July 19, 2021, and EAMS, the official electronic filing system in all California Workers' Compensation cases, indicates a filing date of July 23, 2021. Applicant, a bus driver, alleges injury on June 6, 2021 against the employer and defendant AC Transit.

Defendants filed a Petition to Dismiss Inactive Case dated July 27, 2022, which was filed in EAMS on July 28, 2022.

The undersigned issued a Notice of Intention to Dismiss Case on July 29, 2022. The notice stated that the case would be dismissed 15 days after service, absent objection.

The undersigned issued an Order of Dismissal on August 19, 2022 stating that no objection or response was received to the Notice of Intention to Dismiss dated July 29, 2022.

Applicant filed an Objection to the Notice of Intention to Dismiss Case dated August 17, 2022. The objection was apparently hand-delivered to DWC Oakland and appears to show a date stamp "received" in Oakland on the same day. However, the objection was not uploaded into EAMS until September 14, 2022.

Defendant has filed an Answer.

III. DISCUSSION

When any documents are served by mail, Board Rule 10605 allows for a five day extension of time to exercise a right or respond if the documents are served within the State of California, and a ten day extension for documents served outside of the state but within the United States. (Cal Code of Regs., tit. 8, §10605.) Applicant's objection dated August 17, 2022 with a date stamp to indicate filing on the same day appears to be timely. Where a document is hand-filed, it must be manually sorted with all incoming hand-delivered and U.S.P.S. mail, scanned, and uploaded into EAMS. There is lag in uploading hand-filed documents to EAMS, although the document date and filing date are always indicated in the system. It is possible that processing of the objection was further delayed due to staffing issues in the Oakland District Office. The question of whether the

objection is timely and valid requires a determination of fact and law. Applicant should be entitled to further discovery on the issue.

IV. RECOMMENDATION

It is recommended that the Appeals Board return the case to the Oakland District Office for further discovery.

DATE: 09-23-2022

Therese Da Silva
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE