

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**NATURAL PACK, INC.
121 South Quarantina Street
Santa Barbara, CA 93103**

Inspection No.
1410194

**DENIAL OF PETITION FOR
RECONSIDERATION**

Employer

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code, hereby denies the petition for reconsideration filed in the above-entitled matter by Natural Pack, Inc. (Employer).

JURISDICTION

On June 6, 2019, the Division initiated an inspection of a worksite maintained by Natural Pack, Inc. (Employer). Thereafter, on December 4, 2019, the Division issued Employer one citation with a total of thirteen items.

On December 12, 2019, Employer filed a timely appeal of all citations and items, except Citation 1, Items 5 and 9. Employer subsequently moved to amend its appeal to include Citation 1, Item 9, and its motion was granted. Employer's appeal forms identified its contact as Jeff Woolever, and the preferred method of service was listed as email (hr@naturalpackinc.com).

The Board subsequently scheduled and noticed a Status Conference for November 1, 2021 before Administrative Law Judge (ALJ), Sam Lucas. Employer's representative failed to appear.

The Board subsequently scheduled and noticed a further Status Conference for June 13, 2022. Again, Employer did not appear at the conference.

On June 22, 2022, ALJ Lucas served an Order Dismissing Appeal for Failure to Appear (Order), which provided Employer 15 calendar days to state good cause or a compelling reason for not appearing at the scheduled time and place. The Order noted the dismissal of Employer's appeal would become final after 15 days if Employer failed to submit a timely response.

Rather than filing a timely response to ALJ Lucas's Order, Employer filed a Petition for Reconsideration (Petition) on July 8, 2022, noting "we are exercising our right to appeal the ruling..." Employer's Petition was not verified.

ISSUE

1) May the Board grant the Petition for Reconsideration?

REASON FOR DENIAL OF PETITION FOR RECONSIDERATION

The Board has fully reviewed the record in this case, including the arguments presented in the Petition. We have taken no new evidence. We conclude the Petition must be denied because it is fatally defective.

Employer's petition was not verified nor was there proof of service on the Division. Both verification (Lab. Code, § 6616) and service on the opposing party (Lab. Code, § 6619) are mandatory requirements. (*Wooriman Corporation*, Cal/OSHA App. 2011-9040, Denial of Petition for Reconsideration (April 11, 2011).)

Notably, the Board sent a letter to Employer on July 12, 2022, advising the Employer of the deficiencies, provided instruction on how to cure the deficiencies, and gave Employer five days to address the issue. However, Employer did not respond with a proof of service or verification.

Failure to satisfy the proof of service and verification requirements compels us to deny the petition. (*Wooriman Corporation*, supra, Cal/OSHA App. 2011-9040, citing Lab. Code, §§ 6616, 6619; Lab. Code, § 15 [defining “shall” as mandatory].)

DECISION

For the reasons stated above, the petition for reconsideration is denied.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

/s/ Ed Lowry, Chair
/s/ Judith S. Freyman, Board Member
/s/ Marvin P. Kropke, Board Member

FILED ON: 08/22/2022

