

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

In the Matter of the Appeal of:

JOSE LUIS PEREZ HERNANDEZ
908 Willowbrook
Compton, CA 90220

Employer

Inspection No.
1496831

**DENIAL OF PETITION FOR
RECONSIDERATION**

The California 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 Jose Luis Perez Hernandez (Employer).

JURISDICTION

On October 10, 2020, following a workplace fatality, the Division commenced an inspection of Jose Luis Perez Hernandez (Employer). On December 23, 2020, the Division of Occupational Safety and Health (Division) issued Citation 1, Items 1 through 7, and Citations 2 through 9 to Employer, with proposed penalties of \$77,950.

Employer initiated a timely appeal and asserted several defenses. This matter was subsequently referred to, and reviewed by, the Bureau of Investigations (BOI). BOI closed its investigation on December 29, 2022.

After BOI closed its investigation, the Board set this matter for a status conference on May 1, 2023, but Employer did not appear. The Board set this matter for a further status conference on July 15, 2024, and again Employer did not appear.

On July 17, 2024, the assigned Administrative Law Judge (ALJ) issued an Order Dismissing Appeal for Failure to Appear (Order). The Order provided Employer 15 days to respond, after which time the Order became final. Employer did not timely respond.

On December 1, 2025, Employer filed a Petition for Reconsideration (Petition). Employer's Petition asserts that he was informed that a hearing would be scheduled in April or May of 2021, but states that he never received a call or link for the hearing. Employer states that his business closed in 2022 due to economic hardship and that he moved, losing access to all correspondence. Employer states he was subsequently contacted by the Employment Development Department and informed he owed a balance. Employer asserts that he "never received notice of any order, decision, or outstanding debt."

ISSUES

- 1) Does the Board have jurisdiction to consider Employer's late filed Petition?

REASONS FOR DENIAL OF PETITION FOR RECONSIDERATION

Labor Code section 6617 sets forth five grounds upon which a petition for reconsideration may be based:

- (a) That by such order or decision made and filed by the appeals board or hearing officer, the appeals board acted without or in excess of its powers.
- (b) That the order or decision was procured by fraud.
- (c) That the evidence does not justify the findings of fact.
- (d) That the petitioner has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.
- (e) That the findings of fact do not support the order or decision.

Employer seeks reconsideration on the grounds that the ALJ's decision was made in excess of the Appeals Board's powers; and that the findings of fact do not support the decision. (Lab. Code, § 6617(a) and (e).)

As discussed above, the Order was issued in July of 2024 and Employer did not file its Petition until December 1, 2025, nearly a year-and-a-half later. Labor Code section 6614, subdivision (a), establishes a 30-day period in which a party may petition for reconsideration. The Board lacks jurisdiction to grant reconsideration of a late-filed petition. (*Victor C. Garcia, dba Flores Auto Service*, Cal/OSHA App. 1359495, Denial of Petition for Reconsideration (Sep. 16, 2021) citing *Amerisk Engineering Corp.*, Cal/OSHA App. 1129146, Denial of Petition for Reconsideration (Dec. 21, 2018), citing Labor Code sections 5900 and 5903; *Nestle Ice Cream Co., LLC v. Workers' Comp. Appeals Bd.* (2007) 146 Cal.App.4th 1104, 1108; citing *Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984.) Here, Employer did not file its Petition within the time required by law; therefore, the Board lacks jurisdiction to consider it.

Further, Employer's assertion that it failed to receive notice of any order, decision, or outstanding debt does not alter our jurisdictional conclusion, since Employer bears sole responsibility for any such failure. Employer's Petition states that Employer closed his business due to economic hardship in 2022 and moved, losing access to all correspondence. However, it is Employer's obligation to keep the Board apprised of any change of address. (Cal. Code Regs., tit. 8, § 355.1, subdivision (b).) Employer never filed a change of address with the Board. Therefore, the jurisdictional issue is dispositive.

DECISION

For the reasons stated above, the Employer's Petition for Reconsideration is denied. The ALJ's Order is affirmed.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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

FILED ON: 01/14/2026

