

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

In the Matter of the Appeal of:

**JORGE MARIO HERNANDEZ  
MANTILLA  
6390 WEIDLAKE DRIVE  
LOS ANGELES, CA 90068**

**Employer**

Inspection Number

**1637005**

**DENIAL OF PETITION FOR  
RECONSIDERATION**

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 (Petition) filed in the above-entitled matter by Jorge Mario Hernandez Mantilla (Employer).

**JURISDICTION**

The California Division of Occupational Safety and Health (Division) issued four citations to Employer alleging a total of 18 violations of occupational safety and health standards codified in California Code of Regulations, title 8.<sup>1</sup> Citation 1 alleged 15 General violations, and Citations 2, 3, and 4 each alleged a Serious violation. The citations were issued on January 30, 2023, and Employer received them on February 2, 2023. Employer contacted the Board indicating its intent to appeal the citations on February 14, 2023. On March 5, 2023, the Board sent to Employer a Notice of Incomplete Appeal (Notice) informing Employer that its appeal was late and/or incomplete. Employer responded to the Notice after expiration of the time allowed for completing the appeal.

On April 5, 2023, the Board sent Employer an Administrative Order Dismissing Appeal (Order) which informed Employer its appeal was dismissed because it was late and/or incomplete. The Order informed Employer it could petition for reconsideration of the Order within 30 days and included information about how to do so. The time to petition for reconsideration expired on May 10, 2023, including five days for mailing as provided by Board regulation section 348, subdivision (c).

Employer did not respond to the Order until April 29, 2025, when it filed a petition for reconsideration (Petition).

The Division did not answer the Petition.

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<sup>1</sup> References are to California Code of Regulations, title 8 unless specified otherwise.

## ISSUE

Does the Board have jurisdiction to grant 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 for reconsideration. We have taken no new evidence.

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's petition asserts none of the statutory grounds upon which we may grant reconsideration, which is reason to deny the petition. (*Arodz Motorsports, LLC, dba A1 Tune & Lube*, Cal/OSHA App. #1087194, Denial of Petition for Reconsideration (Nov. 22, 2017).) Even if the Petition had stated one or more of the statutory grounds for reconsideration, we would be required to deny it.

As noted, the Order was issued on April 5, 2023, and informed Employer it had 30 days to file a petition for reconsideration. Including a five-day period for mail, the time to petition expired on May 10, 2023. Also as noted, Employer's Petition was mailed on April 29, 2025, which was almost two years late.

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.) We must, accordingly, deny Employer's petition.

**DECISION**

For the reasons stated above, Employer's Petition is denied. The 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: 06/13/2025

