

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

In the Matter of the Appeal of:

**HASA, INC.
23119 Drayton Street
Saugus, CA 91350**

Employer

Inspection No.

1684649

**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 Hasa, Inc. (Employer).

JURISDICTION

The California Division of Occupational Safety and Health (Division) issued three citations to Employer alleging three violations of occupational safety and health standards codified in California Code of Regulations, title 8.¹ The citations were issued on August 8, 2023, and Employer timely appealed, commencing administrative proceedings before the Board.

On May 28, 2024, the Board served on Employer and the Division a Notice of Status Conference (Notice) to be held on October 21, 2024, at 11:30 a.m. Employer failed to appear at that Conference. On October 23, 2024, the administrative law judge (ALJ) assigned to the matter by the Board issued an Order Dismissing Appeal for Failure to Appear (Order). The Order informed Employer that it had the opportunity to object to the Order, and further that if Employer did not respond to the Order within the time provided (15 days) the Order would become final. The Order, by its terms, became final on November 7, 2024. The Order further stated that in the event it became final, Employer had 30 days after it became final to petition the Board for reconsideration.

Employer did not respond to the Order. Therefore, the time to petition for reconsideration expired on December 12, 2024, including five days for mailing as provided by Board regulation section 348, subdivision (c).

On February 12, 2025, Employer sent by certified mail its Petition to the Board, which is the date the Petition was filed. (Board regulation § 390, subd. (a).)

The Division did not answer the Petition.

¹ 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

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).)

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.

As noted, the Order was issued on October 23, 2024, states it would become final in 15 days if, as was the case, no response or objection was filed, and noted that Employer had 30 days to petition for reconsideration after the Order became final. Including a five-day period for mail, the time to petition expired on December 12, 2024. Also as noted, Employer's Petition was mailed on February 12, 2025, which was two months 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 ALJ's Order and penalties are 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: 03/27/2025

