

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

In the Matter of the Appeal of:

SHORELINE CONSTRUCTORS, INC.

Employer

**Inspection No.
1685885**

**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 Shoreline Constructors, Inc. (Employer).

JURISDICTION

The California Division of Occupational Safety and Health (Division) started an inspection of a place of employment in California maintained by Employer on July 10, 2023. On October 2, 2023, the Division issued one citation to Employer alleging one regulatory and two general violations of occupational safety and health standards codified in California Code of Regulations, title 8.¹ Employer timely appealed.

The matter was assigned to an administrative law judge (ALJ) of the Board for appeal proceedings. The record shows that Employer failed to participate in a duly noticed status conference before the ALJ on May 19, 2025, and failed to make a showing that the failure to appear was for good cause. Accordingly, on May 20, 2025, the ALJ issued an Order Dismissing Appeal for Failure to Appeal (ODA). The ODA provided Employer the opportunity to establish that its failure to appear was for good cause. Employer did not file a response to the ODA. The ODA stated that Employer had 15 days to respond, and that if Employer failed to respond the ODA would become final. In addition, the ODA stated that Employer had the opportunity to file a petition for reconsideration within 30 days from the date the ODA is final.

The ODA became final on June 3, 2025. Accordingly, Employer had 30 days after June 3, 2025, to file a petition for reconsideration, that is, until July 3, 2025.

Employer filed a petition for reconsideration (Petition) on August 13, 2025.

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

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 ODA was issued on May 19, 2025, and informed Employer that it had the opportunity to object to the ODA, and further that if Employer did not respond to the ODA within the time provided (15 days) the ODA would become final. The ODA further stated that in the event it became final, Employer had 30 days after it became final to petition the Board for reconsideration. Including a five-day period for mail, the time to petition expired on July 8, 2025. Employer's Petition was filed on August 13, 2025, which was more than one month late.

Labor Code section 6614, subdivision (a), establishes a 30-day period in which a party may petition for reconsideration. Thus, 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.

We point out, in addition, that were we able to reach the merits of the Petition, we would have to deny it. The Petition as filed consists of information and forms sent to Employer at its apparent request, a verification form executed by Employer, and an executed Proof of Service

stating the Petition was mailed to the Board on August 13, 2025, but not indicating that the Petition was served on the Division as required. (Lab. Code § 6619.) There was no other content. Labor Code section 6616 states, in part, “The petition for reconsideration shall set forth specifically and in full detail the grounds upon which the petitioner considers the final order . . . to be unjust or unlawful, and every issue to be considered by the appeals board.” Failure to do so is grounds to deny a petition. (*Luis Cueva Michel*, Cal/OSHA App. 08-9147, Denial of Petition for Reconsideration (May 28, 2008); *Guadalupe Ramos Lawn & Tree Service*, Cal/OSHA App. 1188067, Denial of Petition for Reconsideration (Jan. 31, 2018).)

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: 09/25/2025