

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

In the Matter of the Appeal of:

**WESTECH SYSTEMS, LLC
827 JEFFERSON AVENUE
CLOVIS, CA 93612**

Employer

Inspection Number
1728192

**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 Westech Systems, LLC (Employer).

JURISDICTION

The California Division of Occupational Safety and Health (Division) issued two citations to Employer alleging one “General” and one “Serious” violation of occupational safety and health standards codified in California Code of Regulations, title 8.¹ The citations were issued on May 30, 2024, and Employer timely appealed, commencing administrative proceedings before the Board.

On January 14, 2025, the Board served on Employer and the Division a Notice of Status Conference (Notice) to be held on April 1, 2025. However, Employer failed to appear at that conference. The administrative law judge (ALJ) assigned to the matter by the Board tried unsuccessfully to contact Employer’s representative and sent a follow-up email on April 1, 2025, requesting a response explaining the failure to appear by April 4, 2025, but no response was received. On April 7, 2025, the ALJ issued an Order Dismissing Appeal for Failure to Appear (Order).

Employer timely filed its Petition for Reconsideration (Petition) with the Board.

The Division did not answer the Petition.

ISSUE

Has Employer established good cause to set aside the Order?

¹ References are to California Code of Regulations, title 8 unless specified otherwise.

**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).)

Even if we were to construe the Petition to assert that the evidence does not support the Order (Lab. Code § 6617, subd. (e)), we would uphold the Order.

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.

The Petition acknowledges the failure to appear. The reason given is that its first representative, an employee, "left the company in January 2025, and we were unaware of our scheduled conference call." (Petition.) Employer's new representative, its new safety manager, states in his letter constituting the Petition, "In reviewing our files this morning, I discovered our appeal and called [OSHAB.] . . . I was informed that our appeal was dismissed for failure to appear."

Board precedent holds that an appealing employer must treat its appeal as it would its most important legal affairs. (*Timothy J. Koch*, Cal/OSHA App. 01-9135, Denial of Petition for Reconsideration (Nov. 20, 2001).) It is reasonable to assume that Employer was aware that its then-current safety manager left the company in January and that he was handling the ongoing appeal of the citations. Reasonable diligence required Employer to arrange to handle the departing manager's pending matters. Failure to do so was a failure to treat the appeal with the care required. (*Timothy J. Koch, supra*, Cal/OSHA App. 01-9135.) The safety manager's resignation in January created the kind of internal operating problem the Board has held is not good cause. (*M & N Consulting, dba A-Line Messenger Service*, Cal/OSHA App. 1498777, Denial of Petition for Reconsideration (Feb. 14, 2022).)

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 Kropke, Board Member



FILED ON: 07/03/2025