

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

In the Matter of the Appeal of:

ABLE SERVICES  
1694 The Alameda  
San Jose, CA 95126-2219

Employer

Docket No. 08-R4D1-4397

**DECISION AFTER**  
**RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code issues the following Decision After Reconsideration in the above entitled matter.

**JURISDICTION**

On October 1, 2008 the Division of Occupational Safety and Health (Division) issued three citations to Able Services (Employer), alleging violations of various workplace safety and health violations at a place of employment in California maintained by Employer. Employer timely appealed those citations. At a duly-noticed pre-hearing conference conducted by an administrative law judge (ALJ) of the Board, the Division and Employer resolved the matter by stipulation. The ALJ issued an Order memorializing the parties' stipulation on June 30, 2009.

On July 23, 2009, the Board ordered reconsideration of the ALJ's Order on its own motion. The Board's Order of Reconsideration granted each of the parties 30 days to file an answer. The parties did so.

**EVIDENCE**

The evidence in this case, no hearing having been held, consists of the administrative record.

**ISSUE**

Whether there was a stipulation of the parties regarding Employer's abatement of the alleged violations.

**FINDINGS AND REASON  
FOR  
DECISION AFTER RECONSIDERATION**

The Board has fully reviewed the record in this case. Based on our independent review of the record, we find that the ALJ's Order was proper, based on substantial evidence in the record as a whole, and that the facts support the Order.

We ordered reconsideration in this proceeding because it was not initially apparent to us that the violations alleged in the citations had been abated, or that the parties' stipulation addressed such abatement. Documents in the record and presented to the ALJ, but which we did not have before us when we first reviewed this matter, show that the alleged violations were abated.

**DECISION**

The June 30, 2009 Order of the ALJ is hereby reinstated and this proceeding is thereby concluded.

CANDICE A. TRAEGER, Chairwoman  
ROBERT PACHECO, Member  
ART R. CARTER, Member

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
FILED ON: NOV 2, 2009