

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

DUONG TANG, *Applicant*

vs.

**SOLAR LINK INTERNATIONAL;
TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA, *Defendants***

Real Parties in Interest:

KHRISTINE EROSHEVICH, *Lien Claimant*

**Adjudication Number: SAU6852145
Van Nuys District Office**

**OPINION AND ORDER DENYING
PETITION FOR RECONSIDERATION**

The insurance carriers in this consolidated matter seek reconsideration of the Opinion and Decision after Reconsideration issued by the Workers' Compensation Appeals Board (Appeals Board) on August 30, 2024 (2024 Decision), which incorporated the Opinion and Decision after Reconsideration issued by the Appeals Board on April 6, 2020 (2020 Decision). We have considered the allegations of the Petition for Reconsideration and although newly aggrieved by the 2024 Decision, the carriers raise no contentions not previously raised and addressed in the 2024 Decision or 2020 Decision. (See eg., 2020 Decision, pp. 22-26; 2024 Decision, pp. 6-7.)

Therefore, and based on our review of the record and for the reasons stated in the 2024 Decision and 2020 Decision, we will deny reconsideration.

Former Labor Code section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, Labor Code section 5909 was amended to state in relevant part that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under Labor Code section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on September 25, 2024, and 60 days from the date of transmission is Friday, November 22, 2024. This decision is issued by or on Friday, November 22, 2024 so that we have timely acted on the petition as required by Labor Code section 5909(a).

Labor Code section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Labor Code section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, the petition for reconsideration is of our prior decision and therefore no report and recommendation was required to be filed by a workers’ compensation administrative law judge. We find no other notice to the parties of the transmission of the case to the Appeals Board in EAMS. Thus, we conclude that the parties were not provided with the notice of transmission required by Labor Code section 5909(b)(1). While this failure to provide notice does not alter the time for the Appeals Board to act on the petition, we note that as a result the parties did not have notice of the commencement of the 60-day period on September 3, 2024.

Accordingly, the petition for reconsideration will be denied for the reasons stated in the 2024 and 2020 Decisions given that the carriers raise no contentions not previously raised and addressed in the 2024 Decision or 2020 Decision.

For the foregoing reasons,

IT IS ORDERED that the carrier's Petition for Reconsideration of the Opinion and Decision after Reconsideration issued by the Workers' Compensation Appeals Board on August 30, 2024 is **DENIED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE A. ZALEWSKI, CHAIR

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

November 19, 2024

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED ON THE FOLLOWING PAGE AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

AJF/abs

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. *abs*

SERVICE LIST

**DAVID BAUTISTA, HEARING REP.
KIRSTINE EROSEVICH, M.D.
OFFICE OF THE DIRECTOR, ANTI-FRAUD UNIT
ROSENBERG YUDIN & PEATMAN
STANDER REUBENS THOMAS KINSEY
TOBIN LUCKS, LLP
WOOLFORD & ASSOCIATES
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