

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

In the Matter of the Appeal of:

**ELITE STONE GROUP INC  
1205 S. DUPONT AVE.  
ONTARIO, CA 91761**

**Employer**

**Inspection No.  
1675024**

**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 Elite Stone Group 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 June 6, 2023. On November 8, 2023, the Division issued one citation to Employer alleging a serious violation of occupational safety and health standards codified in California Code of Regulations, title 8.<sup>1</sup> 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 September 2, 2025, and failed to make a showing that the failure to appear was for good cause. Accordingly, on September 3, 2025, the ALJ issued an Order Dismissing Appeal for Failure to Appear (ODA). The ODA provided Employer the opportunity to establish that its failures to appear were 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 September 18, 2025. Accordingly, Employer had 30 days thereafter to file a petition for reconsideration. Employer's petition was due on or before October 23, 2025, (allowing five days for service by mail).

Employer filed a petition for reconsideration (Petition), late on November 6, 2025.

The Division did not answer the Petition.

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<sup>1</sup> 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 September 16, 2025, and informed Employer it had 15 days to respond with a showing of good cause, that it no showing or an insufficient showing was made the ODA would then be final, and then had 30 days to file a petition for reconsideration. Including a five-day period for mail, the time to petition expired on October 31, 2025. Employer's Petition was filed on November 6, 2025, which was late.

Labor Code section 6614, subdivision (a), establishes a 30-day period in which a party may petition for reconsideration. Thus, although we are sympathetic to the circumstances affecting Employer, 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 Order is affirmed.

**OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**

/s/ Ed Lowry, Chair  
/s/ Judith S. Freyman, Board Member  
/s/ Marvin Kropke, Board Member



FILED ON: 12/19/2025