

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

In the Matter of the Appeal of:

**THE J.F. WILL COMPANY, INC.
2640 INDUSTRIAL PARKWAY, SUITE 100
SANTA MARIA, CA 93455**

Employer

**Inspection Number
1691261**

**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 filed in the above-entitled matter by The J.F. Will Company, Inc. (Employer).

JURISDICTION

On January 10, 2024, the California Division of Occupational Safety and Health (Division) cited Employer with two citations alleging four violations of safety orders set forth in California Code of Regulations, title 8.¹

Employer filed a timely appeal of the Citations and attended several status conferences and one settlement conference prior to the matter being set for hearing. Specifically, during a November 2025 status conference, the matter was set for hearing on March 26 and 27, 2026, with a prehearing conference set on March 2, 2026, just prior to the formal hearing.

On February 2, 2026, the Division filed a timely motion to continue hearing based on the unavailability of the Division's counsel and the Division's representative on the March hearing dates. Employer did not oppose the motion. The Division's motion to continue specifically proposed a status conference to select new hearing dates.

On February 6, 2026, the ALJ granted the Division's motion to continue. The order granting motion to continue hearing only vacated the hearing dates of March 26 and 27, 2026.

On March 2, 2026, the ALJ held the previously noticed and calendared prehearing status conference but Employer failed to appear. The ALJ sent Employer a courtesy notice requesting good cause for failure to appear, potential hearing dates, and placed Employer on notice that failure to respond to the ALJ would result in dismissal of the appeal. Employer failed to respond to the ALJ.

¹ Unless otherwise specified, all references to "section" are to California Code of Regulations, title 8.

On March 10, 2026, the ALJ issued an Order Dismissing Appeal for Failure to Appear (Order) that would automatically self-execute, dismissing the appeal, unless within 15 days Employer filed an objection to the Order. The Order also notified Employer that any petition for reconsideration must be filed no more than 30 days after the Order became final.

The Order became final on March 25, 2026. As such, Employer was required to file a petition for reconsideration by April 24, 2026. Employer filed its petition for reconsideration (Petition) on May 8, 2026, 44 days after the Order became final. The Division has not filed a Response to Employer's Petition.

The Board has fully reviewed the record in this case, including the arguments and documents presented in Employer's Petition. We have taken no new evidence.

ISSUE

Does the Board have jurisdiction to consider Employer's Petition?

REASONS 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 that the Decision does not justify the findings of fact and that the findings do not support the order. (Labor Code § 6617 (c), and (e).)

Labor Code section 6614, subdivision (a), establishes a 30-day period in which a party may petition for reconsideration. Section 348, subdivision (c), adds five extra days to file a petition for reconsideration when a decision is served by mail. 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.)

Employer had until April 24, 2026, to file its Petition. Employer filed its Petition on May 8, 2026. Employer did not file its Petition within the time required by law; therefore, we lack jurisdiction to consider it.

DECISION

For the reasons stated above, Employer's petition for reconsideration is denied and 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: 06/22/2026

