BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:	**Inspection Number 1842156**
3SIXTY INNOVATION, INC. **3555 ROSECRANS ST, STE 114-110** **SAN DIEGO, CA 92110** **Employer**	**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 3Sixty Innovation, Inc. (Employer).

JURISDICTION

The California Division of Occupational Safety and Health (Division) issued Employer seven citations on November 13, 2025, alleging General, Regulatory, Serious, and Serious, Accident-Related violations of the occupational safety and health standards codified in the California Code of Regulations, title 8.[1]

On March 4, 2026, Employer filed its appeal approximately four months late, which was received by the Board on March 6, 2026. Employer also provided the Board with its declaration of good cause for the late appeal, which was also received by the Board on March 6, 2026. In its declaration in support of its good cause argument, Employer claims it did not receive immediate notice of the citations because the citations were signed for by a United Parcel Service mailbox employee, and further references its good history, and lack of representation.

On March 6, 2026, the Board served a Notice of Docketed Appeal on Employer which explained that if Employer's appeal was incomplete or untimely, that Employer would receive a notice and instructions on how to make necessary corrections to its appeal.

On March 30, 2026, the Division provided, at the Board's request, a certified mail return receipt, with signature confirmation, showing that an agent of Employer signed for the citations on November 17, 2025. Because Employer did not initiate its appeal within 15 working days as required by section 359, subdivision (d), on April 1, 2026, the Board served Employer with a Notice of Untimely Appeal.[2]

[1] Unless otherwise specified, citations are to title 8 of the California Code of Regulations.
[2] Employer's Citations became a final order of the Board after 15 working days of the issuance of the citations. (Labor Code § 6600; California Code of Regulations, title 8, section 359.)

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Labor Code section 6601 authorizes the Board to extend the appeal period for good cause; however, it is the burden of the employer seeking leave to file its appeal late to establish good cause. (*Ameripride Uniform*, Cal/OSHA App. 04-106, Decision after Reconsideration (Apr. 3, 2008).) An administrative law judge (ALJ) reviewed and considered Employer's declaration in support of its late appeal and by Order dated April 21, 2026, the ALJ denied Employer's request to file a late appeal. The ALJ found that Employer's confusing the abatement deadline with the appeal deadline was not good cause to grant the late appeal and the explanations provided by Employer in its declaration did not constitute good cause. The Order became final.[3]

Employer filed its Petition on August 10, 2026. The Division did not file an Answer.

ISSUE

Does the Board have jurisdiction to grant 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 cites subdivisions (c) and (e) of Labor Code section 6617, that the evidence does not justify the findings of fact and that the findings of fact do not support the order or decision. Employer's Petition also reiterates the explanations provided in its declaration in greater detail.

However, Employer's Petition was nearly three months late and the ALJ's Order became final when Employer failed to timely file its Petition. Employer was required to file a petition for reconsideration by May 26, 2026, (within 30 days after the service of the Order) pursuant to Labor Code section 6614 and section 390, subdivision (a), including five days for mailing as provided by Board regulation section 348, subdivision (c).

The Board lacks jurisdiction to grant reconsideration when a petition is filed late. (*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,

[3] See Labor Code section 6614, subdivision (a) and section 390.3(a).

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.) Even assuming, *arguendo*, the Board had jurisdiction over Employer's Petition, the Board would still be required to deny reconsideration because Employer failed to establish good cause for its late appeal.

The Board has previously held that failure to understand the appeal process and confusing abatement requirements with the time to file an appeal amounts to a misunderstanding of the appeal process and is not good cause for filing a late appeal. (*RJS Electric,* Cal/OSHA App. 1760736, Decision after Reconsideration (Apr. 23, 2025), citing *Murray Company v. California Occupational Safety and Health Appeals Bd*. (2009) 180 Cal.App.4th 43; *Albeco, Inc. dba Mollie Stone's Markets*, Cal/OSHA App. 1538332, Denial of Petition for Reconsideration (Aug. 11, 2023); *Fabrication Technologies Industries, Inc*, Cal/OSHA App. 1437646, Denial of Petition for Reconsideration (Feb. 22, 2021).) Further, Employer's failure to handle its mail in a timely fashion is an internal operating problem, which is not good cause for a late appeal. (*Rafidain, Inc. DBA Genie Car Wash & Oil Change*, Cal/OSHA App. 1162918, Denial of Petition for Reconsideration (May 12, 2017).)

While we are sympathetic to Employer's circumstances, we must deny Employer's Petition.

DECISION

For the reasons stated above, Employer's Petition is denied.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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

FILED ON: 09/24/2026