

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

In the Matter of the Appeal of:

**DIRECT STAFFING, LLC
402 S MILLIKEN AVE #A
ONTARIO, CA 91761**

Employer

Inspection Number
1853969

**DENIAL OF PETITION FOR
RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Board or Appeals 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 Direct Staffing, LLC (Employer).

JURISDICTION

The California Division of Occupational Safety and Health (Division) issued a citation to Employer on January 30, 2026, alleging five violations of workplace safety standards codified in California Code of Regulations, title 8.¹ Employer received the citation on February 4, 2026.

Employer appealed the citation on March 9, 2026. Labor Code section 6600 requires an appeal of a citation to be filed within 15 working days of receipt of the citation. Here the last day Employer could timely file its appeal was February 26, 2026, and thus the appeal was late.

On March 13, 2026, the Appeals Board issued a Notice of Untimely Appeal (Notice). The Notice requires that an employer's declaration in support of a late appeal must be postmarked within 20 days of service of the Notice. Employer was thus required to file its declaration no later than April 2, 2026.

On March 23, 2026, Gus Salazar (Salazar), filed a declaration in support of Employer's late appeal signed under penalty of perjury. He declared that he was unable to timely appeal due to a personal medical condition that required home treatment which significantly limited his ability to manage business operations. He declared that he was intermittently absent from the office and unable to review the citation.

Labor Code section 6601 authorizes the Board to extend the appeal period for good cause. 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) of the Board reviewed and considered Employer's declaration in support of a late appeal and found it did not establish good cause. (Order Denying Late Appeal, 4/20/2026 (Order).)

¹ References are to California Code of Regulations, title 8 unless specified otherwise.

Employer timely filed a petition for reconsideration (Petition) on April 20, 2026.

The Division did not answer the Petition.

ISSUE

Did Employer show there was good cause for the late appeal?

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 construing the Petition as contending the findings of fact do not support the Order we must deny it.

As the Order points out, the appeal was late due to Employer's personal illness and the lack of procedures to handle important matters in such circumstances. The Order reasoned that the illness was a routine internal operating problem which Employer failed to have procedures in place to cover. Procedures or policies must be instituted for the unavailability of personnel. Internal operating problems are not good cause for late appeals. (*James E. Cairnes*, Cal/OSHA App. 07-9516, Denial of Petition for Reconsideration (Apr. 4, 2008)). An employer's failure to establish procedures for processing important documents during a key worker's absence is an example of an "internal operating problem" which is not good cause for a late appeal. (*A L S Fashion, Inc.*, Cal/OSHA App. 14-9046, Denial of Petition for Reconsideration (July 8, 2014).) It is an employer's obligation to put into place procedures that will ensure that important documents are properly handled. (*Rui Liang dba TE Construction and Electric, Inc.*, Cal/OSHA App. 1312675, Denial of Petition for Reconsideration (Feb. 14, 2019).)

Employer's Petition admits to those facts and seeks reconsideration on the basis that such procedures have since been established. However, Employer does not allege facts which establish good cause for the late appeal. In this context we have held "good cause" to mean "a substantial reason; one that affords a legal excuse." (*SA Recycling, LLC*, Cal/OSHA App. 11-9059, Denial of Petition for Reconsideration (June 3, 2011).) Although we applaud Employer's post-citation creation of procedures to avoid recurrence of the problem, that change does not absolve Employer of filing a late appeal.

Further, the circumstances here do not fall within the scope of the Board's decision in *RJS Electric*, Cal/OSHA App. 1760736, Decision After Reconsideration (Apr. 23, 2025). The mitigating factors in *RJS* (one day late, confusion of abatement and appeal dates) are absent here. It is well established in Board jurisprudence that internal operating problems are not good cause for a late appeal. (*Innovation Construction, Inc.*, Cal/OSHA App.1784640, Denial of Petition for Reconsideration (Feb. 11, 2026).)

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 P. Kropke, Board Member

FILED ON: 06/04/2026

