BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD

In the Matter of the Appeal of:	Inspection Number
MESA FOODS INC. dba **TROPICANA SUPERMARKET** **817 W 19TH ST** **COSTA MESA, CA 92627-3518** **Employer**	**1866346** **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 Mesa Foods, Inc. doing business as Tropicana Supermarket (Employer).

JURISDICTION

On December 30, 2025, the California Division of Occupational Safety and Health (Division) began an accident investigation of Employer's premises in Costa Mesa, California. On March 13, 2026, the Division issued Employer three citations, alleging three violations of California Code of Regulations, title 8.[1] Citation 1, alleged a Regulatory violation of section 342, subdivision (a) [failure to report serious injury in a timely manner]. Citation 2 alleged a Serious violation of section 4543, subdivision (b)(1) and (2) [failure to guard meat cutting band saw blade]. Citation 3 alleged a Serious violation of section 4543, subdivision (c) [failure to have employees use pusher plates while using meat cutting band saw].

The Division mailed the citations and related documents (the citation package) by certified mail to Employer, and they were received on March 16, 2026. On May 15, 2026, Employer filed its appeal forms with the Board. The Board acknowledged the filing by issuing a Notice of Docketed Appeal the same day.

On May 18, 2026, the Board sent Employer a Notice of Untimely Appeal (Notice). The Notice informed Employer that its appeal was filed after the 15-working day appeal period established by Labor Code sections 6600 and 6601, and further that Employer had the opportunity to have the appeal period extended by showing there was good cause for the late appeal. The showing of good cause had to be filed within 20 days of the service of the Notice.

No response to the Notice was received by the Board. On July 7, 2026, the Executive Officer of the Board issued an Administrative Order Dismissing Appeal (Order).

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

On August 6, 2026, Employer filed a timely Petition for Reconsideration (Petition) of the Order but did not serve a copy of the Petition on the Division. The Division did not answer Employer's Petition.

ISSUES

Has Employer satisfied the requirements for filing a petition for reconsideration?

Has Employer shown good cause for the Board to allow a 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.

Failure to Provide Proof of Service

Labor Code section 6619 states in relevant part, "A copy of the petition for reconsideration shall be served forthwith upon all parties by the person petitioning for reconsideration."

Here Employer's Petition did not include a certificate of service showing that the Petition had been served on the Division. On August 11, 2026, the Board sent Employer a deficiency letter informing Employer that it had to serve its Petition on the Division and provide the Board with proof of service within five days from the date of the Board's letter. Employer has not submitted the required proof of service.

Because Employer did not submit the required proof of service within the allotted time, we must dismiss the petition pursuant to California Code of Regulations, title 8, section 391.1, which states:

> […]
> (b) A petition that is not properly verified upon oath and/or not accompanied by a proof of service shall be considered filed in accordance with subsection (a) if the petitioner perfects the petition by filing the verification and/or proof of service within five days of the date of service of a letter from the Appeals Board noting the omission(s).
> (c) Failure to perfect a petition in accordance with subsection (b) shall result in the dismissal of the petition.

Board precedent holds that failure to serve one's petition on the other parties requires the petition to be denied. (*Employbridge Holding Company dba Select Staffing*, Cal/OSHA App. 1149249, Denial of Petition for Reconsideration (Aug. 3, 2017).) We deny the Petition on that ground.

Failure to Establish Good Cause for Late Appeal

Even if Employer had served the Division a copy of the Petition, the Board would still be required to deny it on the merits because Employer failed to demonstrate good cause for the late appeal. Thus, although unnecessary, we explain why Employer has not established good cause for the late appeal.

The Petition includes a declaration by Employer which states in part that after receiving the citations Employer participated in an informal conference with the Division, retained counsel to represent it, and "It has always been my intention … to challenge the citations and seek review of the proposed penalties." (Petition, p. 1.)

Despite all the details included in the Petition, there is no explanation for why Employer took two months to file its appeal. And with one exception the Petition does not provide dates for any of the actions Employer took in response to the accident, its interactions with the Division, when it retained counsel, and so on. The exception noted is that Petition claims Employer attempted to report the accident to the Sana Ana district office at about 6:30 p.m. the day of the accident, about two hours after its occurrence. There was no answer and the report was successfully made the next morning. (Petition, p. 5.) Those details go to the merits of the allegation in Citation 1 that Employer did not timely report the accident to the Division but do not show that there was good cause for the late appeal.

Further, the citation package states on page 2: "**Important**: You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from receipt of the Citation. … An informal conference with Cal/OSHA or the Division **does not** constitute an appeal and **does not** stay the 15 working day appeal period." (All emphases in original.) The citation package is legally sufficient to put employers on notice of their appeal rights and obligations. (*Murray Company v. Occupational Safety and Health Appeals Bd.* (2009) 180 Cal.App.4th 43.)

Board precedent also holds that delaying one's appeal until after an informal conference is not good cause for a late appeal. (*233 Diesel Club, LLC*, Cal/OSHA App. 1404976, Denial of Petition for Reconsideration (Feb. 7, 2020).) Further, an informal conference is not the same as filing an appeal. (*Antonio Corona dba Central Valley Upholstery*, Cal/OSHA App. 1395729, Denial of Petition for Reconsideration (Apr. 13, 2020).)

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DECISION

For the reasons stated above, the petition for reconsideration 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: 09/18/2026