

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re:

J & A MARINE ELECTRIC, LLC and
JERRY TIDWELL

Appellants,

Citation and Notice of Assessment No. W-
065-20

OAH Docket No. 12-2019-LI-01251

NO. 2020-008-WPA

DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the petition for administrative review filed by J & A Marine Electric (the Appellant) regarding the Order Dismissing Appeal dated January 8, 2020, with the Director's Office, and having reviewed the record, issues this Director's Order.

The Director makes the following Findings of Fact, Conclusions of Law, and Final Decision and Order.

I. FINDINGS OF FACT

1. The Office of Administrative Hearings issued and served the Order Dismissing Appeal on January 8, 2020, any appeal was due February 7, 2020.
2. The Office of Administrative Hearings mailed the Order Dismissing Appeal to the address of record of the Appellant.

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3. The Director's Office received the petition for administrative review on February 8, 2020.

4. The Appellant was invited on February 12, 2020, and April 14, 2020, to provide information about whether his appeal was timely. Despite being given 30 days to respond, the Appellant has not done so.

II. CONCLUSIONS OF LAW

1. RCW 49.48.084(3) provides, "Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within thirty days after service of the initial order."

2. The Appellant did not file his petition for administrative review within the time period specified by RCW 49.48.084(3) and his petition is untimely.

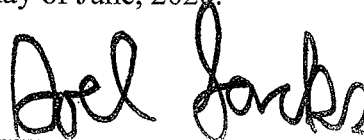
3. RCW 49.48.084(5) provides, "Orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal." Because the petition is untimely, the Initial Order became the final agency decision and there is no authority to review the Initial Order under RCW 49.48.084 and RCW 34.05.

4. The appeal is dismissed.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusions of Law, the February 8, 2020 petition for administrative review is dismissed.

DATED at Tumwater, Washington this 30 day of June, 2020.



JOEL SACKS
Director

SERVICE

This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

APPEAL RIGHTS

Reconsideration. Any party may file a petition for reconsideration. RCW 34.05.470. Any petition for reconsideration must be filed within 10 days of service of this Order and must state the specific grounds on which relief is requested. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that (a) there is material clerical error in the order **or** (b) there is specific material error of fact or law. A petition for reconsideration, together with any argument in support thereof, should be filed by mailing or delivering it directly to Joel Sacks, Director of the Department of Labor and Industries, P. O. Box 44001 Olympia, Washington 98504-4001, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Director's Office. RCW 34.05.010(6).

NOTE: A petition for reconsideration is not required before seeking judicial review. If a petition for reconsideration is filed, however, the 30-day period will begin to run upon the resolution of that petition. A timely filed petition for reconsideration is deemed to be denied if, within twenty (20) days from the date the petition is filed, the Director does not (a) dispose of the petition **or** (b) serve the parties with a written notice specifying the date by which it will act on the petition. RCW 34.05.470(3).

Judicial Review. Any petition for judicial review must be filed with the appropriate court and served within 30 days after service of this Order. RCW 34.05.542. RCW 49.48.084(5) provides: "Orders that are not appealed within the time period specified in this section and Chapter 34.05 RCW are final and binding, and not subject to further appeal." Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.

DECLARATION OF MAILING

I, Lisa Deck, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 30 day of June 2020, to the following via U.S. Mail, postage prepaid.

Jerry Tidwell
J&A Marine Electric, LLC
1614 Puget Drive
Everett, WA 98203

Michael Duggan, AAG
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104

Jared Henline
1912 75th Ave SE
Lake Stevens, WA 98258

DATED this 30 day of June, 2020, at Tumwater, Washington.



Lisa Deck