

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re:

SUNLAND BARK & TOPSOIL CO. and
EDWARD LITTLE,

APPELLANT,

Citation and Notice of Assessment
No. W-146-21,

OAH Docket No. 04-2021-LI-01633

No. 2021-016-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 Order Dismissing Appeal (Order) served on July 22, 2021, having considered the petition for review filed by the Appellant with the Director's Office, and briefing submitted to 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. On April 28, 2021, the Office of Administrative Hearings sent notice of a conference scheduled for July 21, 2021, at 2:00 p.m.
3. On July 21, 2012, the Appellant failed to appear.

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4. The Office of Administrative Hearings issued and served the Order dismissing the appeal on July 22, 2021.
5. The Director received a timely filed petition for administrative review from Appellant.
6. The Appellant admitted in its petition that it received the notice from Office of Administrative Hearings. Its representative indicated that he and the acting president/general manager thought the hearing was on July 29 and not July 21. He indicated that they were inundated with work having to deal with the estate of the previous owner.

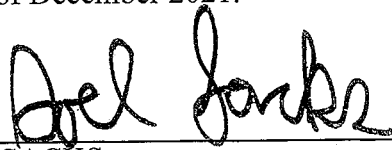
II. CONCLUSIONS OF LAW

1. Based on the Appellant's timely filed petition for review, there is authority to review and decide this matter under RCW 49.48.084 and RCW 34.05.
2. RCW 34.05.440(2) provides: "If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding . . . , the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order."
3. A party's mishandling of the party's calendar is not good cause for missing an event even if the party is busy with other responsibilities. *See Graves v. Dep't of Emp't Sec.*, 144 Wn. App. 302, 311, 182 P.3d 1004 (2008). Because Appellant has alleged no circumstances that would constitute good cause to miss the conference, the appeal is dismissed under RCW 34.05.440(2).

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusions of Law, the Citation and Notice of Assessment is AFFIRMED.

DATED at Tumwater, Washington this 7 day of December 2021.



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 emailing it to directorappeal@lni.wa.gov or 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 7th day of December 2021, to the following via e-mail and U.S. mail, postage prepaid.

Sunland Bark & Topsoil Co.
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nowufunny3@gmail.com

DATED this 7 day of December, 2021, at Tumwater, Washington.



Lisa Deck