

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re: INSPIRED 2, INC. dba
CLEANPRO SERVICES and LESLIE D.
WILLIAMS and SPOUSE, and the
MARITAL COMMUNITY THEREOF,

Citation and Notice of Assessment No. W-
272-16

OAH Docket No. 05-2016-LI-00142

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 served on June 27, 2016, having considered the petition for review filed by Leslie Williams (the Appellant) with the Director's Office on July 27, 2016, correspondence submitted to the Director's Office, and having reviewed the record created at hearing and the records and files herein, issues this Director's Order. The parties in this matter are the Department and the Appellant. This Order intends to resolve the contested issue of whether the Appellant's appeal should be dismissed for failure to attend a prehearing telephone conference on June 21, 2016. **The Order Dismissing Appeal is vacated and this matter is remanded to the Office of Administrative Hearings for further proceedings.**

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 June 27, 2016, following a prehearing telephone conference on June 21, 2016, at which the Appellant failed to appear. The Order Dismissing Appeal became the Initial Order.
2. On July 27, 2016, the Appellant timely filed a petition for review with the Director.
3. The Appellant was unable to attend the prehearing telephone conference due to the effects from recent treatment for his terminal medical condition.
4. On September 22, 2016, the Department filed a response to the Appellant's petition for review stating it does not oppose the Appellant's appeal.

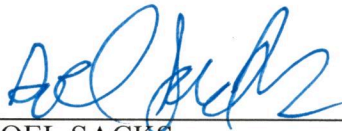
II. CONCLUSIONS OF LAW

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. If a party fails to participate in any stage of an adjudicative proceeding, the adjudicating officer may serve on all the parties an order of default. RCW 34.05.440(2). The party against whom the order was issued may file a motion requesting that the order be vacated. RCW 34.05.440(3). The decision to vacate a default judgment is discretionary. *Graves v. Dep't of Employment Sec.*, 144 Wn. App. 302, 309, 182 P.3d 1004 (2008).
3. The Director vacates the Order Dismissing Appeal. Vacating the Order Dismissing Appeal is warranted under these circumstances, based on the Appellant's reasons for failing to appear at the prehearing telephone conference and based on consideration that the Department does not oppose the appeal.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the Order Dismissing Appeal, served on June 27, 2016 is VACATED and this matter is remanded to the Office of Administrative Hearings for further proceedings.

DATED at Tumwater this 7 day of October, 2016.



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.

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AMENDED DECLARATION OF
SERVICE TO DIRECTOR'S ORDER

RCW 49.48.084(4); RCW 34.05

I, Lisa Rodriguez, 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 October 2016, to the following via certified mail, postage prepaid:

Leslie D. Williams
Inspired 2 Inc. dba CleanPro Services
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Kirkland, WA 98033

Rebecca Echols, AAG
Attorney General's Office
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Seattle, WA 98104

Angelina Nikitov
211 Dallas Street
Mount Vernon, WA 98274

DATED this 7 day of October, 2016, at Tumwater, Washington.



Lisa Rodriguez