

DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON

In re:

JEFFREY RICHARDSON

Appellant,

Determination of Compliance: DOC-236-
17

OAH Docket No. 10-2017-LI-00582

2018-003-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 served on November 14, 2017, having considered the petition for review filed by Jeffrey Richardson (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 parties in this matter are the Department of Labor & Industries (Department) and the Appellant.

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

I. FINDINGS OF FACT

1. On October 17, 2017, the Office of Administrative Hearings sent notice of a pre-hearing conference scheduled for November 7, 2017 at 1:00 pm.
3. On November 7, 2017, the Appellant failed to appear.
4. The Office of Administrative Hearings issued and served the Order Dismissing Appeal on November 14, 2017.
5. On November 27, 2017, the Director received a timely filed petition for administrative review from the Appellant.
6. The Appellant missed the conference because his doctor's appointment scheduled for 11:45 that day ran late.


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. Because Appellant has alleged circumstances that constitute good cause to miss the conference, the order dismissing appeal is vacated and the case is remanded to Office of Administrative Hearings for hearing.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the Order Dismissing Appeal is vacated and this case is remanded to Office of Administrative Hearings for hearing.

DATED at Tumwater this 9 day of February, 2018.



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 Rodriguez, hereby declare under penalty of perjury under the laws of the State of Washington, that the DIRECTOR'S ORDER was mailed on the 9 day of February 2018, to the following via regular mail, postage prepaid.

Jeffrey Richardson
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Lonnie Davis
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DATED this 9 day of February, 2018, at Tumwater, Washington.



Lisa Rodriguez