

**DIRECTOR OF THE DEPARTMENT OF LABOR & INDUSTRIES
STATE OF WASHINGTON**

In re:

JIM WILKERSON,

Appellant,

Determination of Compliance No.
DOC-138-23

OAH Docket No. 08-2023-LI-01931

No. 2024-002-WPA

DIRECTOR'S ORDER
REMANDING CASE

RCW 49.48.084(4); RCW 34.05

Joel Sacks, Director of the Washington State Department of Labor & Industries, having considered the appeal filed by Jim Wilkerson, (Appellant), 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. The Office of Administrative Hearings issued and served the Order Dismissing Appeal on November 15, 2023.
2. The Director received a timely filed petition for review from the Appellant.
3. The Appellant claims that he was unable to attend the motion hearing on November 13, 2023, due to medical reasons.

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OFFICE OF THE DIRECTOR
DEPARTMENT OF LABOR & INDUSTRIES
P.O. BOX 44001
OLYMPIA, WA 98504-4001

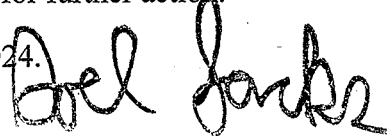
II. CONCLUSIONS OF LAW

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. An appellant needs to show good cause for missing a hearing at the Office of Administrative Hearings. *Graves v. Emp. Sec. Dep't*, 144 Wn. App. 302, 311, 182 P.3d 1004 (2008).
3. The Director is unable to determine if there is good cause on this record and remands to the Office of Administrative Hearings for a hearing on the matter.

III. DECISION AND ORDER

Consistent with the above Findings of Fact and Conclusion of Law, the Order Dismissing Appeal of November 15, 2023, is vacated and remanded for further action.

DATED at Tumwater this 23 day of April, 2024.



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).

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 REMANDING CASE** was mailed on the 23 day of April 2024, to the following via regular, postage prepaid:

Heather Leibowitz, AAG
Office of the Attorney General
800 Fifth Ave, Ste. 2000
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Western Refinery Services, Inc.
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Jim Wilkerson
2552 Norway Rd
Ferndale, WA 98248
wilkjim@gmail.com

DATED this 23 day of April, 2024, at Tumwater, Washington.



LISA DECK

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