STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Petition of:

WILLIAM FARINON,

Petitioner,

DOCKET NO. PR 14-128

To Review Under Section 101 of the Labor Law:
A determination of the Commissioner of Labor for
Case Number LS 10 2013099193 dated April 30,
2014.

- against -

THE COMMISSIONER OF LABOR,

Respondent.

APPEARANCES

William Farinon, petitioner pro se.

Pico Ben-Amotz, General Counsel, NYS Department of Labor (Robyn E. Henzel of counsel). for respondent.

WHEREAS:

On June 27, 2014, the petitioner filed a petition to review the respondent's decision of April 30, 2014 to not pursue a claim filed by the petitioner. The respondent moved on August 5, 2014 to dismiss the petition because the Board does not have jurisdiction to review a decision by the Commissioner of Labor (Commissioner) to not pursue a claim. In Matter of Toohey, PR 09-223 (January 27, 2010), we held that under Labor Law § 101, the Board only has jurisdiction to review rules, regulations or orders made by the Commissioner, and found that we did not have authority to review a decision by the Commissioner to withdraw an order issued against the claimant's employer, because such determination was not a rule, regulation, or order. In Matter of Ode, PR 10-191 (April 27, 2011) the Board found that, as in Toohey, the Commissioner's decision to not pursue the petitioner's claim is not a rule, regulation or order, and therefore cannot be reviewed by the Board under Labor Law § 101 (see also Matter of Rosenberg, PR 13-125 [January 16, 2014]). Since we have no jurisdiction in this matter, the petition must be dismissed.
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The petition for review be, and the same hereby is, denied.

Dated and signed by the Members of the Industrial Board of Appeals on July 22, 2015.
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The petition for review be, and the same hereby is, denied.

Vilda Vera Mayuga, Chairperson
At Albany, New York

J. Christopher Meagher, Member
At Albany, New York

La Marr J. Jackson, Member
At Rochester, New York

Michael A. Arcuri, Member
At Syracuse, New York

Dated and signed by the Members of the Industrial Board of Appeals on July 22, 2015.
NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The petition for review be, and the same hereby is, denied.

Vilda Vera Mayuga, Chairperson
At Albany, New York

J. Christopher Meagher, Member
At Albany, New York

LaMarr J. Jackson, Member
At Rochester, New York

Michael A. Arcuri, Member
At Syracuse, New York

Dated and signed by the Members of the Industrial Board of Appeals on July 22, 2015.