

**U.S. Department of Labor**

Board of Alien Labor Certification Appeals  
800 K Street, NW, Suite 400-N  
Washington, DC 20001-8002

(202) 693-7300  
(202) 693-7365 (FAX)



**Issue Date: 29 October 2004**

**BALCA Case No.:** 2003-INA-245  
**ETA Case No.:** P2001-CA-09508883/JS

*In the Matter of:*

**MAJESTIC WOOD WORKS,**  
*Employer,*

*on behalf of*

**MARIO RODRIGUEZ,**  
*Alien.*

Appearances: Luis Franco, Esquire  
Torrance, California  
For Employer

Certifying Officer: Martin Rios  
San Francisco, California

Before: Burke, Chapman and Vittone  
Administrative Law Judges

**ORDER DENYING RECONSIDERATION**

**PER CURIAM.** The Certifying Officer's denial of labor certification was affirmed by a Panel decision of the Board on August 18, 2004. On September 8, 2004, the Panel received the Employer's Motion for Reconsideration. Upon consideration of the arguments presented in the motion, the Panel concludes that reconsideration is not warranted.

Denial of labor certification was based on the Employer's unlawful rejection of a qualified U.S. applicant. In the motion for reconsideration, the Employer stated that the applicant was unqualified because he did not have experience with "staircases, wood banisters,

curve and straight railings.” However, as noted by the Panel decision, the Employer did not list any experience requirements on the ETA 750A. Further, the applicant had nineteen years of experience as a carpenter and specifically noted on his resume that he had experience with stairwell installation.

The Panel also denied certification on the basis that the Employer took six weeks to contact the applicants after the receipt of their resumes; the Employer failed to justify this delay. In the motion for reconsideration, the Employer argued that the applicants were contacted late because he was “very busy to deliver the works to client to avoid complaints.” This does not justify the delay in contacting the applicants. *Naegle Associates, Inc.*, 1988-INA-504 (May 23, 1990) (undocumented assertion of “limited resources” does not justify one month delay in contacting applicants).

As such, the Employer has failed to cite any valid reason for reconsideration and merely reiterated the arguments previously made in rebuttal. These arguments have already been deemed to be without merit. Accordingly, Employer’s Motion for Reconsideration is hereby DENIED.

Entered at the direction of the Panel by:

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Todd R. Smyth  
Secretary to the Board of Alien  
Labor Certification Appeals